

**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Paper No.:**20120402A

**DATE** : April 2, 2012

**TO SPE OF** : ART UNIT 1731

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7,217,675

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

**Certificates of Correction Branch - PK 3-910**

Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance**

**Certificates of Correction Branch**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:**

**SPE:** /Melvin C Mayes/

**Art Unit** 1732





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KENYON & KENYON LLP  
ONE BROADWAY  
NEW YORK, NY 10004

**MAILED**  
**MAR 30 2011**

PCT LEGAL ADMINISTRATION

In re Patent of	:	
HEGEDUS et al	:	
Patent No.: 7,501,455	:	DECISION ON PETITION
Application No.: 10/802,528	:	UNDER 37 CFR 1.78(a)(3)
Filing Date: March 17, 2004	:	
Attorney Docket No.: 3347-101PCT	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 22, 2010, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the request for a certificate of correction filed concurrently with the instant petition.

The petition is **DISMISSED**.

MPEP 1481.03 states, in relevant part:

Where 35 U.S.C. 120 and 365(c) priority based on an international application is to be asserted or corrected in a patent via a Certificate of Correction, the following conditions must be satisfied:

(A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11);

(C) the patentee must submit together with the request for the certificate, copies of documentation showing designation of states and any other information needed to make it clear from the record that the 35 U.S.C. 120 priority is appropriate (see MPEP § 201.13(b) as to the requirements for 35 U.S.C. 120 priority based on an international application; and

(D) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

The petition fails to satisfy item (D) above.

A petition for acceptance of a late claim for priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:



- (1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in 37 CFR 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above. Specifically, 35 U.S.C. 120 requires that the application (as opposed to the patent) be amended to contain the required reference. Before the petition under 37 CFR 1.78(a)(3) can be granted, a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matter is required.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Bryan Lin  
Legal Examiner  
Office of PCT Legal Administration  
(571) 272-3303





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KENYON & KENYON LLP  
ONE BROADWAY  
NEW YORK, NY 10004

**MAILED**

JUN 29 2011

PCT LEGAL ADMINISTRATION

In re Patent of  
HEGEDUS et al  
Patent No.: 7,501,455  
Application No.: 10/802,528  
Filing Date: March 17, 2004  
Attorney Docket No.: 3347-101PCT

:  
:  
:  
DECISION ON PETITION  
:  
UNDER 37 CFR 1.78(a)(3)  
:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 3, 2011, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the request for a certificate of correction filed November 22, 2010.

The petition is **GRANTED**.

A proper claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was not made within the time period set forth in 37 CFR 1.78(a)(2)(ii).

Because, the instant application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. See MPEP 1481.03.

As the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 to the above-noted, prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

This patented file is being forwarded to the Certificates of Correction Branch for processing the request for a Certificate of Correction.

*Bryan Lin*  
Bryan Lin  
Legal Examiner  
Office of PCT Legal Administration  
(571) 272-3303





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Steptoe & Johnson  
1330 Connecticut Avenue, NW  
Washington DC 20036  
Chicago IL 60610

**MAILED**  
**DEC 23 2011**  
**OFFICE OF PETITIONS**

In re Patent No. 7,446,173	:	
Pepinsky et al.	:	DECISION UPON REMAND AND
Issue Date: November 4, 2008	:	RECONSIDERATION OF
Application No. 10/802,540	:	PATENT TERM ADJUSTMENT
Filed: March 16, 2004	:	AND NOTICE OF INTENT
Attorney Docket No. BII-008.02	:	TO ISSUE CERTIFICATE OF
Title: Polymer Conjugates of	:	CORRECTION
Interferon Beta 1A and Uses	:	

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by eight thousand and twenty-four (824) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred and twenty-four (824) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/



Patent No. 7,446,173

Application No. 10/802,540

Page 2

Kery A. Fries  
Senior Legal Advisor Attorney  
Office of Patent Legal Administration  
Office of Associate Commissioner  
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,446,173

DATED : November 4, 2008

**DRAFT**

INVENTOR(S) : Pepinsky et al.

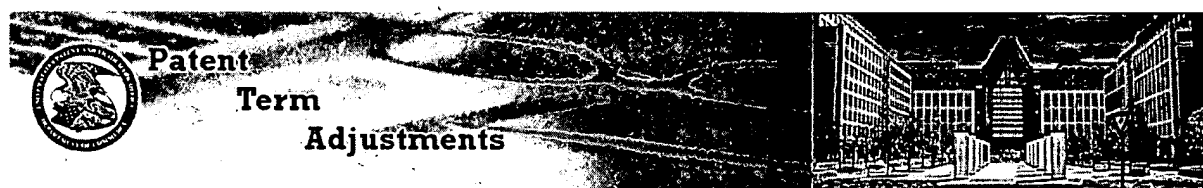
It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 502 days

Delete the phrase "by 502 days" and insert -- by 824 days--





PTA/PTE Information    Patent Term Adjustment    Patent Term Extension

Application Number\*: 10802540        [Explanation of PTA Calculation](#)    [Explanation of PTE Calculation](#)

PTA Calculations for Application: 10802540

Application Filing Date	03/16/2004	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	11/04/2008	Non-Overlapping USPTO Delays:	590
A Delays	590	PTO Manual Adjustment	322
B Delays	0	Applicant Delay (APPL)	88
C Delays	0	Total PTA (days)	824

\* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
157	12/22/2011		P028	Adjustment of PTA Calculation by PTO	322	0	
147	11/04/2008		PTAC	Patent Issue Date Used in PTA Calculation		0	
147.5	10/15/2008	03/16/2007	PTA36M	PTA 36 Months	0	0	
146	10/07/2008		EFDC	Export to Final Data Capture		0	
145	10/06/2008		D1935	Dispatch to FDC		0	
144	10/06/2008		PA..	Change in Power of Attorney (May Include Associate POA)		0	
143	10/06/2008		C.AD	Correspondence Address Change		0	
142	10/02/2008		N084	Issue Fee Payment Verified		0	
141	10/02/2008		IFEE	Issue Fee Payment Received		0	
139	09/24/2008		CRFT	Sequence Forwarded to Pubs on Tape		0	
138	09/19/2008		EIDC	Export to Initial Data Capture		0	
136	09/15/2008		MN/=.	Mail Notice of Allowance		0	
135	09/15/2008		IREV	Issue Revision Completed		0	
134	09/15/2008		DVER	Document Verification		0	
131	09/02/2008		N/=.	Notice of Allowance Data Verification Completed		0	
130	09/02/2008		DOCK	Case Docketed to Examiner in GAU		0	
129	09/02/2008		EX.A	Examiner's Amendment Communication		0	
128	09/02/2008		CNTA	Allowability Notice		0	
115	07/11/2008		QURF	Workflow - Query Request - Finish		0	
113	06/17/2008		FWDX	Date Forwarded to Examiner		0	
111	06/17/2008		ABN9	Disposal for a RCE / CPA / R129		0	
109	05/30/2008		MP006	Mail-Record Petition Decision of Granted to Withdraw from Issue		0	
108	05/30/2008		P006	Record Petition Decision of Granted to Withdraw from Issue		0	
120	05/29/2008		IDSC	Information Disclosure Statement considered		0	
114	05/29/2008		M844	Information Disclosure Statement (IDS) Filed		0	
112	05/29/2008		RCEX	Request for Continued Examination (RCE)		0	
107	05/29/2008		WIDS	Information Disclosure Statement (IDS) Filed		0	
106	05/29/2008		PET.	Petition Entered		0	
105	05/29/2008		BRCE	Workflow - Request for RCE - Begin		0	
104	05/09/2008		EFDC	Export to Final Data Capture		0	
103	05/08/2008		D1935	Dispatch to FDC		0	
102	05/08/2008		MN271	Mail Response to 312 Amendment (PTO-271)		0	
101	05/07/2008		N271	Response to Amendment under Rule 312		0	
99	04/17/2008		FIDC	Finished Initial Data Capture		0	
98	04/17/2008		D1935	Dispatch to FDC		0	
97	03/19/2008		PILS	Application Is Considered Ready for Issue		0	
96	03/10/2008		N084	Issue Fee Payment Verified		0	
95	03/10/2008		IFEE	Issue Fee Payment Received		0	
94	01/28/2008		C.ADB	Correspondence Address Change		0	
100	01/15/2008		A.NA	Amendment after Notice of Allowance (Rule 312)		0	
93	01/11/2008		EIDC	Export to Initial Data Capture		0	
92	01/08/2008		MN/=.	Mail Notice of Allowance		0	
91	01/08/2008		MEX.A	Mail Examiner's Amendment		0	
79	01/07/2008		IREV	Issue Revision Completed		0	
78	01/07/2008		DVER	Document Verification		0	
77	01/07/2008		EX.A	Examiner's Amendment Communication		0	
76	01/07/2008		N/=.	Notice of Allowance Data Verification Completed		0	
75	01/07/2008		CNTA	Allowability Notice		0	
69	12/01/2007		FWDX	Date Forwarded to Examiner		0	
72	11/26/2007		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		0	
71	11/26/2007		LET.	Miscellaneous Incoming Letter		0	
70	11/21/2007		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		0	
68	11/21/2007	08/25/2007	A...	Response after Non-Final Action		88	63
67	11/21/2007		XT/G	Request for Extension of Time - Granted			
65	10/30/2007		PA..	Change in Power of Attorney (May Include Associate POA)		0	



90	10/29/2007	IDSC	Information Disclosure Statement considered	0
86	10/29/2007	RCAP	Reference capture on IDS	0
85	10/29/2007	M844	Information Disclosure Statement (IDS) Filed	0
66	10/29/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
64	10/29/2007	C.AD	Correspondence Address Change	0
63	05/25/2007	MCTNF	Mail Non-Final Rejection	0
62	05/14/2007	CTNF	Non-Final Rejection	0
61	05/03/2007	PG- ISSUE	PG-Pub Issue Notification	0
56	03/05/2007	FWDX	Date Forwarded to Examiner	0
55	02/27/2007	ELC	Response to Election / Restriction Filed	0
54	02/27/2007	XT/G	Request for Extension of Time - Granted	0
53	12/27/2006	05/16/2005 MCTRS	Mail Restriction Requirement	590 -1
52	12/21/2006	CTRS	Restriction/Election Requirement	0
60	11/10/2006	IDSC	Information Disclosure Statement considered	0
51.7	11/10/2006	EIDS	Electronic Information Disclosure Statement	0
51	11/10/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
59	10/19/2006	IDSC	Information Disclosure Statement considered	0
50	10/19/2006	RCAP	Reference capture on IDS	0
49.7	10/19/2006	M844	Information Disclosure Statement (IDS) Filed	0
49	10/19/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
48	08/25/2006	CRFE	CRF Is Good Technically / Entered into Database	0
46	08/18/2006	A.PE	Preliminary Amendment	0
45	04/17/2006	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
44	04/17/2006	DOCK	Case Docketed to Examiner in GAU	0
36	04/06/2006	WROIPE	Application Return from OIPE	0
35	04/06/2006	COMP	Application Is Now Complete	0
34	04/06/2006	ROIPE	Application Return TO OIPE	0
33	04/06/2006	WROIPE	Application Return from OIPE	0
32	04/06/2006	COMP	Application Is Now Complete	0
31	04/06/2006	ROIPE	Application Return TO OIPE	0
30	03/29/2006	WROIPE	Application Return from OIPE	0
29	03/29/2006	COMP	Application Is Now Complete	0
27	03/22/2006	ROIPE	Application Return TO OIPE	0
26	03/22/2006	WROIPE	Application Return from OIPE	0
25	03/22/2006	COMP	Application Is Now Complete	0
24	03/22/2006	ROIPE	Application Return TO OIPE	0
23	03/21/2006	WROIPE	Application Return from OIPE	0
22	03/21/2006	COMP	Application Is Now Complete	0
18	03/21/2006	ROIPE	Application Return TO OIPE	0
16	03/21/2006	COMP	Application Is Now Complete	0
17	03/20/2006	OIPE	Application Dispatched from OIPE	0
43	01/03/2006	A.PE	Preliminary Amendment	0
57	04/25/2005	IDSC	Information Disclosure Statement considered	0
42	04/25/2005	RCAP	Reference capture on IDS	0
41.7	04/25/2005	M844	Information Disclosure Statement (IDS) Filed	0
41	04/25/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
11	08/31/2004	CRFE	CRF Is Good Technically / Entered into Database	0
40	07/30/2004	A.PE	Preliminary Amendment	0
10	07/30/2004	WAMD	Workflow incoming amendment IFW	0
58	07/22/2004	IDSC	Information Disclosure Statement considered	0
39	07/22/2004	RCAP	Reference capture on IDS	0
38.7	07/22/2004	M844	Information Disclosure Statement (IDS) Filed	0
38	07/22/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
28	07/22/2004	FLFEE	Payment of additional filing fee/Preexam	0
13	07/22/2004	SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in	0
12	07/22/2004	CRFL	CRF Disk Has Been Received by Preexam / Group / PCT	0
9	05/18/2004	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
5	04/26/2004	L128	Cleared by L&R (LARS)	0
4	04/12/2004	L198	Referred to Level 2 (LARS) by OIPE CSR	0
3	04/12/2004	CLSS	CASE CLASSIFIED BY OIPE	0
2	03/25/2004	SCAN	IFW Scan & PACR Auto Security Review	0
37	03/16/2004	A.PE	Preliminary Amendment	0
20	03/16/2004	CLAIM	Claim Preliminary Amendment	0
1	03/16/2004	IEXX	Initial Exam Team nn	0

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SCHWEGMAN, LUNDBERG & WOESSNER/WMS GAMING  
P.O. BOX 2938  
MINNEAPOLIS, MN 55402

**MAILED**

AUG 31 2010

In re Application of	:	
Christopher W. Blackburn	:	<b>OFFICE OF PETITIONS</b>
Application No.: 10/802,699	:	
Filed: March 17, 2004	:	<b>DECISION ON PETITION</b>
Attorney Docket No.: 1842.030US1	:	

This is a decision in response to the petition, filed June 22, 2010, to revive the above-identified application under the unintentional provisions of 37 CFR 1.137(b).

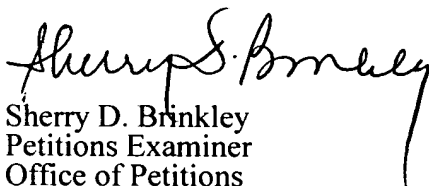
The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed November 10, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 10, 2009. See MPEP 1215.04. A Notice of Abandonment was mailed on June 22, 2009. In response, on June 22, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Appeal Brief and requisite fee; (2) the petition fee of \$1,620; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3714.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions





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Paper No.

FOLEY AND LARDNER LLP  
SUITE 500  
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WASHINGTON DC 20007

MAILED  
SEP 13 2010  
OFFICE OF PETITIONS

In re Patent No. 7,636,791 : DECISION ON REQUEST  
MASAO Shimada : FOR  
Issue Date: December 22, 2009: RECONSIDERATION OF  
Application No. 10/802,738 : PATENT TERM ADJUSTMENT  
Filed: March 18, 2004 : and  
Atty Docket No. 043034-0181 : NOTICE OF INTENT TO ISSUE  
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on February 4, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred sixty-one (1361) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred sixty **(1360)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on March 19, 2007 and ends on October 8, 2008, the day before the RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 570 days, and the B delay considering the 201 days of overlap is 369 days.



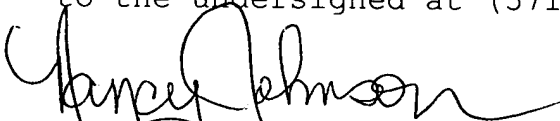
The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand three hundred sixty **(1360)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,636,791 B2

DATED : December 22, 2009

**DRAFT**

INVENTOR(S) : Shimada

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 991 days

Delete the phrase "by 991 days" and insert – by 1360 days--





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**SEP 21 2011**

**OFFICE OF PETITIONS**

FISH & RICHARDSON P.C. (TC)  
PO BOX 1022  
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,925,657	:
Issued: April 12, 2011	: DECISION ON PATENT TERM and
Application No. 10/802,958	: NOTICE OF INTENT TO ISSUE
Filed: March 17, 2004	: CERTIFICATE OF CORRECTION
Atty. Dkt. No.: 16113-0326001	:
	:

This is a decision on the application for patent term adjustment filed June 9, 2011 requesting that the patent term adjustment be increased from 1504 days to 1,885 days.

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The above-identified application matured into U.S. Pat. No. 7,925,657 on April 12, 2011. The patent issued with a patent term adjustment of 1,504 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentees argue that the patent is entitled to 1,379 days under 37 CFR 1.702(b). Patentees further assert that the overall patent term adjustment should be reduced an additional eight days in connection with the request for continued examination filed November 17, 2010. Thus, patentees assert that the patent is entitled to an overall patent term adjustment of 1,885 days (611 days under 37 CFR 1.702(a) plus 1,379 days under 37 CFR 1.702(b) plus 990 days under 37 CFR 1.702(e) less 990 overlapping days less 105 days under 37 CFR 1.704).

With respect to further reduction in connection with the filing of the request for continued examination on November 17, 2010, the patent is subject to seven additional days of reduction in accordance with 37 CFR 1.704(c)(9)(i). The reduction commenced August 19, 2010, the day after the date that the first Notice of Allowance was mailed on August 18, 2010, and ended August 25, 2010, the date that the second Notice of Allowance was mailed. Accordingly, the overall applicant delay under 37 CFR 1.704 totals 104 days.

Patentees' arguments that the period of adjustment pursuant to 37 CFR 1.702(b) is 1,379 days rather than zero days have been carefully considered and found partly persuasive. The period of adjustment pursuant to 37 CFR 1.702(b) was properly increased an additional 258 days.

35 USC 154(b)(1)(B) states in relevant part:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not



including — (i) any time consumed by continued examination of the application requested by the applicant under section 132(b).

37 CFR 1.702(b) states in relevant part:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including: (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b).

37 CFR 1.703(b) states in relevant part:

The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Accordingly, in the instant matter, and in compliance with the provisions of law and rules set forth above, the period of adjustment under § 1.702(b) is 1248 days, the period from November 17, 2010, the date that the RCE was filed, to April 12, 2011, the date that the patent issued, being excluded from the period of adjustment under 37 CFR 1.702(b).

In view thereof, at the time of issuance, the patent was entitled to an overall adjustment of 1,755 days (611 days under 37 CFR 1.702(a) + 1,248 days under 37 CFR 1.702(b) + 990 under 37 CFR 1.702(e) – 990 days under 37 CFR 1.702(b)(4) – 104 days of applicant delay under 37 CFR 1.704).

Receipt is hereby acknowledged of the required \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 1,755 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.



Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

*/ALESIA M. BROWN/*

Alesia M. Brown  
Attorney Advisor  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,925,657

DATED : April 12, 2011

**DRAFT**

INVENTOR(S) : Pfleger, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1504 days

Delete the phrase "by 1504 days" and insert -- by 1,755 days --





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**DEC 20 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,925,657

Issued: April 12, 2011

Application No. 10/802,958

Filing or 371(c) Date: March 17, 2004

Atty. Dkt. No.: 16113-0326001

:  
: DECISION ON REQUEST FOR  
: RECONSIDERATION OF  
: PATENT TERM ADJUSTMENT  
:

This is a decision on the request for reconsideration of decision mailed September 21, 2011 with respect to the application for patent term adjustment under 37 CFR 1.704(d) filed June 9, 2011. This request, filed November 18, 2011, is deemed timely filed within the meaning of 37 CFR 1.181(f).

**RELEVANT BACKGROUND**

Patentees request that a decision on this request for reconsideration of patent term adjustment be deferred or delayed until after a final decision has been rendered in Abbott Biotherapeutics Corp v. Kappos, 1:2010cv01853 (D.D.C. 2010).

The request is hereby **DENIED**.

The above-identified application matured into U.S. Patent No. 7,925,657 on April 12, 2011 with a revised patent term adjustment of 1,504 days. On September 21, 2011, a decision on patentees' application for patent term adjustment under 37 CFR 1.705(d), filed June 9, 2011, was mailed. The decision mailed September 21, 2011 granted relief with respect to a reduction of seven days in accordance with 37 CFR 1.704(c)(9)(i) in connection with the mailing of a supplemental Notice of Allowance on August 25, 2010.

The decision mailed September 21, 2011 also granted, in part, relief with respect to patentees' request for patent term adjustment under 37 CFR 1.703(b) wherein patentee requested an increase in patent term adjustment pursuant to 37 CFR 1.703(b) from zero days to 1,379 days, the decision on petition granted an increase in patent term adjustment under 37 CFR 1.703(b) from zero days to 1,248 days. Thus, on November 22, 2011, a Certificate of Corrections issued wherein the patent was corrected to reflect that at the time of issuance, the patent was entitled to an overall patent term adjustment of 1,755 days rather than 1,504 days, as set forth on the Letters Patent.



Patentees maintain that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentees contend that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, patentees argue that subsequent to the filing of the request for continued examination on November 17, 2010, examination of the application closed on December 3, 2010, the date upon which the Notice of Allowance was mailed. Thus, patentees argue that no continued examination took place during the 131 day period from December 3, 2010 (the mailing date of the Notice of Allowance) until April 12, 2011 (the date the patent was issued). As such, patentees maintain that the "B delay" should include the 131 days and be increased from 1,248 days to 1,379 days. Patentees herein request that the patent term adjustment for the above-identified patent be increased from 1,755 days to 1,886 days (611 days pursuant to 37 CFR 1.703(a) *plus* 990 days pursuant to 37 CFR 1.703(e) *plus* 1,379 days pursuant to 37 CFR 1.703(b) *less* 990 overlapping days *less* 104 days of applicant delay pursuant to 37 CFR 1.704(b)).

#### **RELEVANT STATUTES**

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);
- (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or
- (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was



filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

- (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
- (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
- (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
- (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
- (5) Any delay in the processing of the application by the Office that was requested by the applicant.

### **DECISION**

Patentees' arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 1,248 days based on the application having been filed under 35 USC 111(a) on March 17, 2004 and the patent not having issued as of March 18, 2007, the day after the date that is three years after the date that the application was filed, and a request for continued examination under 132(b) having been filed on November 17, 2010. In other words, the 131-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)<sup>1</sup>. So, with respect to calculating the "B delay"

---

<sup>1</sup> Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

- (a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:
  - (1) Payment of the issue fee, unless a petition under § 1.313 is granted;
  - (2) Abandonment of the application; or
  - (3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.
- (b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.



where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentees do not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See, Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentees' argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.



Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)<sup>2</sup>. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii)

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<sup>2</sup> Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.



specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. Websters Collegiate Dictionary, (11<sup>th</sup> ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See, 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection; or other requirement, with the reasons therefor. See, 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the



propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the issuance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in BlackLight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See, BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See, In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See, 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See, 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures<sup>3</sup> permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See, 37 CFR 1.114(a)(1). As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for

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<sup>3</sup> Note, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.



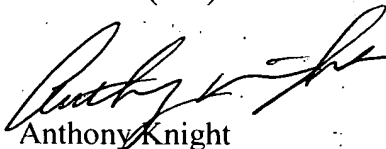
delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

### **CONCLUSION**

For the above-stated reasons, a review of the petition and file wrapper of the above-identified patent reveals that the above-identified patent is not entitled to a patent term extension or adjustment of 1,886 days. Therefore, the petition to change the patent term adjustment indicated on the above-identified patent to 1,886 days is DENIED.

This decision may be viewed as final agency action. See, MPEP 1002.02(b).

Telephone inquiries specific to this matter should be directed to Attorney Advisor Alesia M. Brown at (571) 272-3205.

A handwritten signature in black ink, appearing to read "Anthony Knight", is written over the printed name.

Anthony Knight  
Director  
Office of Petitions



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**DATE** : 03-02-12

**TO SPE OF** : ART UNIT 2611

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 10/803201 Patent No.: RE43036

CofC mailroom date: 02-21-12

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

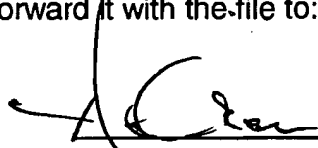
Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)  
Randolph Square - 9D10-A  
Palm Location 7580

**Note:** \_\_\_\_\_  
\_\_\_\_\_



Angela Green 571.272.9005

CofC Branch 703-756-1814

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

  
SPE

Art Unit 2882





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**JUL 22 2011**

**OFFICE OF PETITIONS**

In re Application of	:	
Rodenbeck et al.	:	
Application No. 10/803434	:	
Filing or 371(c) Date: 03/18/2004	:	DECISION
Attorney Docket Number: STS-P024-01	:	ON PETITION

This is a decision on the petition under 37 CFR § 1.181 to withdraw notice of abandonment, filed May 27, 2011.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed August 9, 2005, wherein no claims were allowed. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a).

Applicant filed a Notice of Appeal in response to the Office action on February 14, 2006, and an Appeal Brief on May 18, 2006. The Examiner filed an Answer on August 9, 2006, wherein the Examiner allowed claims 18-26. Applicant filed a Reply Brief on October 13, 2006.

The case was set before the Board of patent Appeals and interferences ("Board"), which noted the Examiner's allowance of claims 18-26, and stated that "only the rejection of claims 1-7, 10-16 and 27-29 is before us on appeal." Board Decision at pp. 1-2. The Board also stated that "[i]f the Examiner remains of the position that claims 18-26 should be allowed, a 'Reasons for Allowance' should be included to ensure completeness of the record." Board Decision at p.10.

The Board, however, in its conclusion, sustained the Examiner's rejections, including claims 18-26.

The present petition

Applicant files the present petition noting the above to wit; that the Examiner allowed claims 18-26, as noted by the Board.



Analysis

A review of Office records reveals that the Board reference to the rejection of claims 18-26, is inconsistent with the totality of the Board decision. The Board removed claims 18-26 from consideration, stating that “only the rejection of claims 1-7, 10-16 and 27-29 is before us on appeal.” Id.

Conclusion

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to Technology Center Art Unit 2612 for action by the Examiner on the remaining/allowed claims.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods  
Attorney  
Office of Petitions





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**FEB 08 2011**

**OFFICE OF PETITIONS**

In re Application of :  
DEWITT, JR., et al :  
Application No. 10/803,663 : **DECISION ON PETITION**  
Filed: March 18, 2004 :  
Attorney Docket No. AUS920030548US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 2, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 3, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of \$1620; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2192 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/  
Diane C. Goodwyn  
Petitions Examiner  
Office of Petitions





UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
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CITYPLACE II  
185 ASYLUM STREET  
HARTFORD CT 06103-4102

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OCT 07 2010

**OFFICE OF PETITIONS**

In re Patent No. 6,375,773	:	
Issued: April 23, 2002	:	
Application No. <del>09/529,262</del> 10/804,238	:	ON PETITION
Filed: April 12, 2000	:	
Attorney Docket No. 6474-01WOUS	:	

This is a decision on the petition under 37 CFR 1.378(c), filed September 14, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on April 24, 2010 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office.

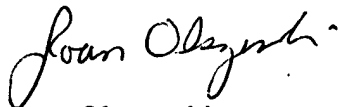
Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation



to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

A handwritten signature in cursive script, appearing to read "Joan Olszewski".

Joan Olszewski  
Petitions Examiner  
Office of Petitions

cc: Alan A. Fanucci  
Winston & Strawn LLP  
200 Park Avenue  
New York, NY 10166





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Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450

**MAILED**

**JUL 06 2011**

**OFFICE OF PETITIONS**

**KINNEY & LANGE, P.A.  
THE KINNEY & LANGE BUILDING  
312 SOUTH THIRD STREET  
MINNEAPOLIS MN 55415-1002**

In re Application of :  
Richard G. WASHINGTON : ON PETITION  
Application No. 10/804,478 :  
Filed: March 19, 2004 :  
Atty. Docket No.: PA0014517U-U71.12-219KL

This is a decision on the petition under 37 CFR 1.137(b), filed May 31, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due mailed May 23, 2011, which set a statutory period for reply of three (3) months. The application became abandoned on May 24, 2011, and a Notice of Abandonment was mailed June 13, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of payment of the issue and publication fees in accordance with the Notice of Allowance and Fee(s) Due, (2) a petition fee of \$1620, and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

Telephone inquiries regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application file will be referred to Office of Data Management for further processing.

Anthony Knight  
Director  
Office of Petitions



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Paper No.:**20120107

**DATE** : January 06, 2012

**TO SPE OF** : ART UNIT 1761

**SUBJECT** : Request for Certificate of Correction on Patent No.: 10/804,513

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

**Certificates of Correction Branch - ST (South Tower) 9A22**

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance**

**Certificates of Correction Branch**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:**

Ok to enter as the corrected claim1

/HAROLD PYON/  
Supervisory Patent Examiner.Art Unit 1761



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

DATE : 01/04/11

TO SPE OF : ART UNIT 1761

SUBJECT : Request for Certificate of Correction for Appl. No.: 10804513 Patent No.: 7521405

CofC mailroom date: 12/28/11

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**

**Randolph Square – 9D10-A**

**Palm Location 7580**

**You can fax the CofC SPE response to 571-273-3421**

Note: Should the changes to claim 1 be approved?

**SPE's Response: OK to enter claim 1 as changed**

**/Harold Pyon/**

**Harold Pyon**

**SPE 1761**

*Lamonte Newsome*

**Certificates of Correction Branch**

**571-272-3421**



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☐ **Approved**

**All changes apply.**

☐ **Approved in Part**

**Specify below which changes **do not** apply.**

☐ **Denied**

**State the reasons for denial below.**

**Comments:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**SPE**

\_\_\_\_\_  
**Art Unit**





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MINNEAPOLIS MN 55440-1022

**MAILED**  
**JUN 22 2011**  
**OFFICE OF PETITIONS**

In re Application of	:	
Wan et al.	:	
Patent Number: 7,899,698	:	DECISION ON
Issue Date: 03/01/2011	:	APPLICATION FOR
Application No. 10/804580	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 03/19/2004	:	
Attorney Docket Number:	:	
12587-0224001	:	

This is a decision on the petition filed on May 2, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand seven hundred ninety-nine (1799) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand seven hundred ninety-nine (1799) days is **DISMISSED**.

Patentees filed, *inter alia*, a Request for Continued Examination ("RCE"), on September 17, 2010. This Office mailed a Notice of Allowance and Issue Fee Due on October 22, 2010. Patentees request an additional one hundred thirty-one (131) days of patent term adjustment, in the period beginning on the date that the Notice of Allowance and Issue Fee Due was mailed, and ending on the date the patent issued, March 1, 2011. Patentees aver that with the mailing of the Notice of Allowance and Issue Fee Due on October 22, 2010, the Office closed examination on the present application on that date. Accordingly, Patentees assert that 131 days of B Delay should have been included in the period of delay accorded the Director, and that the Patent Term Adjustment should be calculated as 1799 days, instead of 1668 days.

Counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in



September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing,"



as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)<sup>1</sup>. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11<sup>th</sup> ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

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<sup>1</sup> Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.



The “time consumed by” or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the “American Inventors Protection Act of 1999,” as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 (“[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor”). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 (“[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant”). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 (“[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application”). Neither the issuance of a notice of allowance nor the issuance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO’s responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO’s duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).



Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) (“[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration; or the application becomes abandoned”). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures<sup>2</sup> permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)’s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office’s failure to issue the patent within three years, but does not include “any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b).” It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the “B” delay period, the over three year period begins on March 20, 2007, and ends on September 16, 2010, the day before the RCE, filed September 17, 2010, was filed, and is 1277 days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1668 days, not 1799 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

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<sup>2</sup> Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.



The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods  
Attorney  
Office of Petitions





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**OFFICE OF PETITIONS**

Paper No.

MBHB/TRADING TECHNOLOGIES  
300 SOUTH WACKER DRIVE  
SUITE 3200  
CHICAGO IL 60606

In re Application of :  
Burns :  
Application No. 10/804,631 : ON APPLICATION FOR  
Filed: March 19, 2004 : PATENT TERM ADJUSTMENT  
Atty Docket No. : 02-184-C :  
Title: SYSTEM AND METHOD FOR :  
ESTIMATING A SPREAD VALUE :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed June 28, 2010. Applicants request that the patent term adjustment be corrected from one thousand and seventy (1070) days to nine hundred and twenty-three (923) days.

The request for reconsideration of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is 923 days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 21, 2010, the Office mailed a "Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)," which indicated that the Patent Term Adjustment to date was 1070 days. The present request for reconsideration, filed June 28, 2010, was timely filed as it was submitted concurrently with the issue fee. See § 1.705(b). Applicant asserts that a reduction should have been assessed, associated with a response to the mailing of two Information Disclosure Statements.

A review of the application history supports a conclusion that Applicant is correct.



37 CFR 1.704(c)(8) sets forth that the following constitutes a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application, and will result in a reduction of the period of adjustment:

Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed

On November 17, 2009, Applicant submitted a response to a Rule 105 requirement. A first Information Disclosure Statement (IDS) was received on March 15, 2010, and a second IDS was received on April 13, 2010, 147 days after the receipt of the response to the Rule 105 requirement.<sup>1</sup> It follows that a 147-day reduction is warranted.

A reduction of 147 days has been entered.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 932 (1070 days of Office delay minus 147 days of Applicant delay) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required. The Office thanks Applicant for her good faith and candor in bringing this to the attention of the Office.

Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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<sup>1</sup> The record supports Applicant's assertion that neither IDS contains the statement contained within 37 C.F.R. § 1.704(d). As such, these two submissions constitute a failure to engage in reasonable efforts to conclude prosecution.



The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

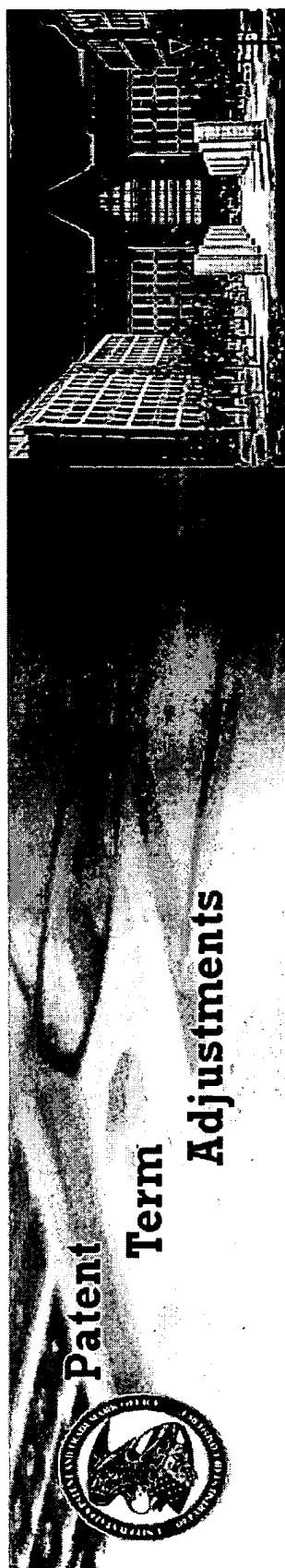
Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

A handwritten signature in dark ink, appearing to read 'Anthony Knight', is written over the printed name.

Anthony Knight  
Director  
Office of Petitions

Enclosure: Copy of REVISED PALM Screen





PTA/PTE Information    Patent Term Adjustment    Patent Term Extension

Application Number\*:         Explanation of PTA Calculation    Explanation of PTE Calculation

**PTA Calculations for Application: 10804631**

Application Filing Date	03/19/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1070
A Delays	1070	PTO Manual Adjustment -147	
B Delays	0	Applicant Delay (APPL)	0
C Delays	0	Total PTA (days)	923

\* - Sorted Column

**File Contents History**

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration		Parent Action Number
					PTO	APPL	
104	09/04/2010		P028	Adjustment of PTA Calculation by PTO		147	0
90	05/21/2010		MN/=.	Mail Notice of Allowance			0
89	05/11/2010		IREV	Issue Revision Completed			0
88	05/11/2010		DVER	Document Verification			0
87	05/11/2010		N/=.	Notice of Allowance Data Verification Completed			0



84	05/10/2010	CNTA	Notice of Allowability	0
82	04/13/2010	IDSC	Information Disclosure Statement considered	0
81	04/13/2010	EIDS.	Electronic Information Disclosure Statement	0
80	04/13/2010	WIDS	Information Disclosure Statement (IDS) Filed	0
83	03/15/2010	IDSC	Information Disclosure Statement considered	0
79	03/15/2010	EIDS.	Electronic Information Disclosure Statement	0
78	03/15/2010	WIDS	Information Disclosure Statement (IDS) Filed	0
77	03/06/2010	FWDX	Date Forwarded to Examiner	0
76	11/17/2009	R105	Response to Rule 105 Required for Information Filed	0
75	10/05/2009	ELC_RVW	Electronic Review	0
74	10/05/2009	EML_NTF	Email Notification	0
73	10/05/2009	MCTMS	Mail Miscellaneous Communication to Applicant	0
72	09/30/2009	CTMS	Miscellaneous Action with SSP	0
71	08/12/2009	FWDX	Date Forwarded to Examiner	0
70	07/07/2009	A...	Response after Non-Final Action	0
69	06/25/2009	MCTMS	Mail Miscellaneous Communication to Applicant	0
68	06/22/2009	CTMS	Miscellaneous Action with SSP	0
67	04/14/2009	FWDX	Date Forwarded to Examiner	0
66	03/13/2009	A...	Response after Non-Final Action	0
65	01/23/2009	MCTNF	Mail Non-Final Rejection	0
64	01/21/2009	CTNF	Non-Final Rejection	0
63	11/06/2008	FWDX	Date Forwarded to Examiner	0
61	11/06/2008	FWDX	Date Forwarded to Examiner	0
59	11/06/2008	ABN9	Disposal for a RCE / CPA / R129	0
62	10/29/2008	AMSB	Amendment Submitted/Entered with Filing of CPA/RCE	0
60	10/29/2008	RCEX	Request for Continued Examination (RCE)	0
58	10/29/2008	BRCE	Workflow - Request for RCE - Begin	0
57	10/29/2008	MEXIN	Mail Examiner Interview Summary (PTOL - 413)	0
56	10/20/2008	EXIN	Examiner Interview Summary Record (PTOL - 413)	0



55	09/19/2008	MCTFR	Mail Final Rejection (PTOL - 326)	0
54	09/15/2008	CTFR	Final Rejection	0
53	08/13/2008	FWDX	Date Forwarded to Examiner	0
52	07/22/2008	A...	Response after Non-Final Action	0
51	04/23/2008	05/19/2005 MCTNF	Mail Non-Final Rejection	-1
49	03/20/2008	IDSC	Information Disclosure Statement considered	0
48	03/20/2008	EIDS.	Electronic Information Disclosure Statement	0
47	03/20/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
46	03/14/2008	CTNF	Non-Final Rejection	0
39	01/29/2008	DOCK	Case Docketed to Examiner in GAU	0
86	01/15/2008	M844	Information Disclosure Statement (IDS) Filed	0
45	01/15/2008	IDSC	Information Disclosure Statement considered	0
38	01/15/2008	RCAP	Reference capture on IDS	0
33	01/15/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
32	01/09/2008	DOCK	Case Docketed to Examiner in GAU	0
31	01/08/2008	DOCK	Case Docketed to Examiner in GAU	0
44	12/06/2007	IDSC	Information Disclosure Statement considered	0
35	12/06/2007	RCAP	Reference capture on IDS	0
34	12/06/2007	M844	Information Disclosure Statement (IDS) Filed	0
30	12/06/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
29	10/17/2007	W525	Withdraw Flagged for 5/25	0
28	10/17/2007	DOCK	Case Docketed to Examiner in GAU	0
27	10/15/2007	F525	Flagged for 5/25	0
43	05/22/2007	IDSC	Information Disclosure Statement considered	0
24	05/22/2007	RCAP	Reference capture on IDS	0
23	05/22/2007	M844	Information Disclosure Statement (IDS) Filed	0
22	05/22/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
21	01/25/2007	DOCK	Case Docketed to Examiner in GAU	0
20	01/25/2007	DOCK	Case Docketed to Examiner in GAU	0

1070



19	06/30/2006	DOCK	Case Docketed to Examiner in GAU	0
18	09/02/2005	DOCK	Case Docketed to Examiner in GAU	0
17	06/22/2005	DOCK	Case Docketed to Examiner in GAU	0
16	03/24/2005	RESC	Rescind Nonpublication Request for Pre Grant Publication	0
15	07/09/2004	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
14	07/09/2004	DOCK	Case Docketed to Examiner in GAU	0
85	06/17/2004	CFRPT	Corrected filing receipt	0
10	06/03/2004	COMP	Application Is Now Complete	0
9	06/03/2004	W/OA	Pre-Exam Office Action Withdrawn	0
6	06/03/2004	COMP	Application Is Now Complete	0
13	06/02/2004	WROIPE	Application Return from OIPE	0
12	06/02/2004	ROIPE	Application Return TO OIPE	0
11	06/02/2004	WROIPE	Application Return from OIPE	0
8	06/02/2004	ROIPE	Application Return TO OIPE	0
7	06/02/2004	OIPE	Application Dispatched from OIPE	0
4	04/15/2004	L194	Cleared by OIPE CSR	0
3	04/15/2004	CLSS	CASE CLASSIFIED BY OIPE	0
2	03/26/2004	SCAN	IFW Scan & PACR Auto Security Review	0
5	03/19/2004	NPRQ	PGPubs nonPub Request	0
1	03/19/2004	IEXX	Initial Exam Team nn	0

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THOMAS F. LENIHAN  
TEKTRONIX, INC.  
14150 S. W. KARL BRAUN DRIVE  
P.O. BOX 500 (50-LAW)  
BEAVERTON OR 97077-0001

**MAILED**

NOV 26 2010

OFFICE OF PETITIONS

In re Application of  
Katsuhiro WATANABE, et al  
Application No. 10/804,671  
Filed: March 18, 2004  
Attorney Docket No. 7651-US0

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowability, mailed January 26, 2010, which set a period for reply of three (3) months. Accordingly, this application became abandoned on April 27, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of \$1510 and Publication Fee of \$300; (2) the petition fee of \$1620; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

All other inquiries should be directed to the Office of Data Management at (571) 272-4000.

The application is being referred to the Office of Data Management for processing into a patent.

/DCG/  
Diane C. Goodwyn  
Petitions Examiner  
Office of Petitions





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United States Patent and Trademark Office  
P.O. Box 1450

**THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP**  
**400 INTERSTATE NORTH PARKWAY SE**  
**SUITE 1500**  
**ATLANTA GA 30339**

**MAILED**

**NOV 21 2011**

**OFFICE OF PETITIONS**

In re Application of :  
Paul C. DAVIDSON et al. : ON PETITION  
Application No. 10/804,825 :  
Filed: March 19, 2004 :  
Atty. Docket No.: 820802-1010 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2011, to revive the above-identified application.

The petition is **GRANTED**.

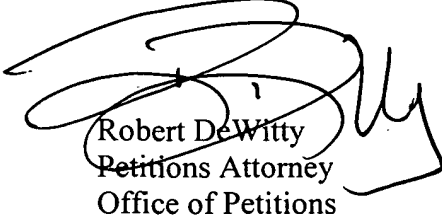
The application became abandoned as a result of petitioner's failure to file a submission under 37 CFR 1.114 with the Request for Continued Examination (RCE), and RCE fee filed September 29, 2008. A Notice of Appeal was filed April 28, 2008 and a three months extension of time under the provisions of 37 CFR 1.136(a) was obtained September 29, 2008. Therefore, as an appeal brief (and appeal brief fee) was not filed within five (5) months of the Notice of Appeal, the appeal was dismissed and the proceedings to the rejected claims were terminated. *See*, 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on September 30, 2008. *See*, MPEP 1215.04. A Notice of Abandonment was mailed January 12, 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continued Examination (RCE), and RCE fee, and submission under 1.114, (2) the petition fee of \$930, and (3) a statement of unintentional delay.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).



The application will be referred to Technology Center Art Unit 1631 for consideration of the filed submission.



Robert DeWitty  
Petitions Attorney  
Office of Petitions





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**NOKIA CORPORATION**  
**c/o Ware, Fressola, Van Der Sluys & Adolphson LLP**  
**Building Five, Bradford Green**  
**755 Main Street, PO Box 224**  
**Monroe CT 06468**

**MAILED**

**MAY 18 2011**

**OFFICE OF PETITIONS**

In re Application of	:	
Lauri Paatero	:	
Application No. 10/804,852	:	DECISION ON PETITION
Filed: March 19, 2004	:	
Attorney Docket No. 915-008.022	:	

This is a decision on the petition, filed April 5, 2011, requesting withdrawal of the holding of abandonment in the above-identified application, which is being treated as a petition under 37 CFR 1.8(b).

The petition is **GRANTED**.

In this application, a non-final Office action was mailed on September 22, 2010, which set a (3) month shortened statutory period for reply. Accordingly, a reply was due on or before December 22, 2010. Office records do not indicate a reply to have been timely filed. Petitioner states that "applicant has learned of the abandonment on the basis of the telephone call of March 29, 2011 from Examiner Tabor inquiring about the status of the application."

Petitioner states that a timely reply was mailed via certificate of mailing on December 21, 2010, which included the following paper(s): an amendment. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing dated December 21, 2010, which would have rendered the reply timely if received. Additionally, petitioner has included a copy of the postcard receipt that indicates Office's receipt of the amendment on December 27, 2010.

The file record does include the originally submitted papers. Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received



in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of September 22, 2010 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 2434 for appropriate action in the normal course of business on the reply received with petition.

/Ramesh Krishnamurthy/  
Ramesh Krishnamurthy  
Petitions Examiner  
Office of Petitions





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OCT 21 2010

**OFFICE OF PETITIONS**

KENNETH R. GLASER  
MONIQUE A. VANDER MOLEN  
GARDERE WYNNE SEWELL, LLP  
1601 ELM STREET, SUITE 3000  
DALLAS, TX 75201-4761

In re Patent No. 7,092,782  
Issue Date: August 15, 2006  
Application No. 10/804,853  
Filed: March 19, 2004  
Patentee(s): Cricket Lee

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed on August 30, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Jack A. Kanz appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

Additionally, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

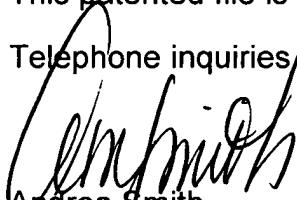
The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.



It is noted that the address given in the present petition is different from the address of record. A courtesy copy of this decision is being mailed to petitioner at the address given in the petition. However, petitioner should note that a change of correspondence address will not affect the fee address. Therefore, if petitioner desires to receive future correspondence regarding maintenance fees for the above patent, a "Fee Address Indication" and/or "Request for Customer Number", along with the appropriate power of attorney forms must be submitted. See USPTO forms PTO/SB/47, PTO/SB/81A and PTO/SB/125.

This patented file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.



Andrea Smith  
Petitions Examiner  
Office of Petitions

cc: Jack A. Kanz  
502 So. Cottonwood Drive  
Richardson, TX 75080





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1100 NEW YORK AVENUE, N.W.  
WASHINGTON DC 20005

**MAILED**

**JAN 23 2012**

**OFFICE OF PETITIONS**

In re Patent No. 7,321,597

Issued: 01/22/2008

Application No. 10/805,088

Filed: 03/18/2004

Attorney Docket No. 2875.4580000

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NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 30, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

*C. T. Donnell*

Christina Tartera Donnell  
Senior Petitions Attorney  
Office of Petitions



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**DATE** : 9-24-11

**TO SPE OF** : ART UNIT 3684

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 10805414 Patent No.: 7805366

**CofC mailroom date:** 11-8-10

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**  
**Randolph Square – 9D40-E**  
**Palm Location 7580**

**Note:**     

**Omega Lewis**

**703-756-1575**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☐ **Approved**

**All changes apply.**

☐ **Approved in Part**

**Specify below which changes do not apply.**

☐ **Denied**

**State the reasons for denial below.**

**Comments:** Please issue the certification of correction as requested. Enter the amendments  
as provided in the request.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

/Kambiz Abdi/

**SPE**

**3694**

**Art Unit**





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,530	03/22/2004	Dana Hilt	088734-1108	8526
22428 7590 04/19/2011 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER KLINKEL, KORTNEY L	
			ART UNIT 1611	PAPER NUMBER
			MAIL DATE 04/19/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.





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**APR 19 2011**

FOLEY AND LARDNER LLP  
SUITE 500  
3000 K STREET NW  
WASHINGTON DC 20007

In re Application of :  
Hilt et al. :  
Serial No.: 10/805,530 : Decision on Petition  
Filed: March 22, 2004 :  
Attorney Docket No: 088734-1108 :

This letter is in response to the petition filed under 37 C.F.R. § 1.181 filed on March 18, 2011 requesting entry of the 132 Declaration after final, or, in the alternative, withdrawal of finality.

**BACKGROUND**

The examiner mailed to applicants a non-final Office action on February 2, 2010. Claims 45-68 were pending and were rejected. Claims 45-53 and 56 were rejected under 35 U.S.C. 102(a) as being anticipated by Yu et al. as evidenced by Armarego et al. Claims 44-68 were rejected under 35 U.S.C. 102(b) as being anticipated by Pujol et al. as evidenced by the 1.132 declaration by Raux submitted on 3/6/08 as well as the data provided in response to the 37 CFR 1.105 request for information, or in the alternative, under 35 USC 103 (a) as obvious over Pujol et al. as evidenced by the data provided in response to the 37 CFR 1.105 request for information in further view of Ansel et al., as evidenced by the 1.132 declaration by Raux submitted on 3/6/08. Claims 45-68 were rejected under 35 U.S.C. 102(e) as anticipated by Rouanet et al. or, in the alternative, under 35 U.S.C. 103(a) as obvious over Rouanet et al. in further view of Ansel et al. Claims 45-68 were rejected under 35 U.S.C. 102(e) as being anticipated by LeNestour et al. or, in the alternative, under 35 U.S.C. 103(a) as obvious over LeNestour et al. in further view of Ansel et al. Claims 45-68 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-16 of copending Application No. 11/249122 alone or alternatively in further view of Ansel et al.



In response thereto, applicants submitted a Declaration under 1.131 and remarks on June 3, 2010 addressing the rejections set forth in the Office action of February 2, 2010.

The examiner mailed to applicants a final Office action on November 4, 2010. Claims 45-68 were pending and were rejected. Claims 44-68 were again rejected under 35 U.S.C. 102(b) as being anticipated by Pujol et al. as evidenced by the 1.132 declaration by Raux submitted on 3/6/08 as well as the data provided in response to the 37 CFR 1.105 request for information, or in the alternative, under 35 USC 103 (a) as obvious over Pujol et al. as evidenced by the data provided in response to the 37 CFR 1.105 request for information in further view of Ansel et al., as evidenced by the 1.132 declaration by Raux submitted on 3/6/08. Claims 45-68 were again provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-16 of copending Application No. 11/249122 alone or alternatively in further view of Ansel et al.

On March 3, 2011, applicants submitted an after final amendment including and remarks and a Declaration under 1.132.

On March 14, 2011, the examiner mailed to applicants an advisory action indicating that the Declaration under 1.132 would not be entered because applicant failed to provide a showing of good and sufficient reasons why it was not presented earlier.

On March 18, 2011, applicants submitted the petition currently under review.

On March 15, 2011, a telephonic interview was held.

## DISCUSSION

The petition and file history have been carefully considered.

Applicants argue that "The Declaration filed March 3, 2011 was submitted in response to the Final Office Action filed November 4, 2010 and could not have been submitted earlier because it directly addresses a new issue raised for the first time in the Final Office Action. Since the Declaration only could have been presented after the Final Office Action and is necessary to address the new issue, these are "good and sufficient reasons" justifying entry after final under 37 CFR § 116(e)." Applicants also argue "In the Final Office Action, the Examiner alleged for the first time that the underlying clinical trial constitutes a public use. In particular, pages 9-10 of the Office Action stated:

35 USC 102(b) states that the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States (emphasis added [in Office Action]). The clinical trial published by Pujol in 1995, several years before the effective filing date of the instant application, constitutes **public use**.



This statement raises a new ground of rejection that was not previously raised in any preceding Office Action. Indeed, the Final Office Action was the first time that the "public use" doctrine was raised by the Examiner. Up until the Final Office Action, the § 102(b) rejection was based on the Pujol reference, and would be evaluated by the disclosure (express or inherent) within the four corners of that document. By raising the issue that the underlying clinical trial also constitutes prior art under § 102(b), the Examiner broadened the scope of prior art that was being cited."

Applicants' arguments have been accorded careful consideration but they are not persuasive that the examiner erred in making the Office action of November 4, 2010 final nor are they persuasive that the Declaration under 1.132 should have been entered. With regard to the Declaration, it is pointed out that the rejection over Pujol citing the rule 1.105 information provided by applicant was originally presented in the non-final Office action, **not** the final Office action. With regard to the public use argument being raised for the first time in the final Office action, this is not persuasive. The examiner was merely explaining the statutory basis of 102. See the response of November 4, 2011 wherein the examiner discussed the meaning of 102. Note page 9 of the Office action where the examiner states: "35 USC 102 states...." Thus, this does not constitute a new issue, rendering the finality of the Office action improper. The rejection set forth in the non-final and the final Office action is the same. Accordingly, the finality of the Office action of November 4, 2010 is deemed proper and the Declaration filed March 3, 2011 under 1.132 will not be entered as applicants have not provided good and sufficient reasons as to why the declaration was not presented earlier.

## DECISION

The petition is **DENIED**.

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.



Remy Yucel  
Director, Technology Center 1600





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3-30-2011  
Patent No : 7,908,306 B1  
Ser. No. : 10/805,596  
Inventor(s) : Chieng, et. al.  
Issued: March 15, 2011

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1.17(i) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

*In the Request*, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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Post Office Box 1450  
Alexandria, VA 22313-1450



By hand: Customer Service Window  
Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

By fax: (703) 872-9306  
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James  
For Mary Diggs  
Decisions & Certificates  
of Correction Branch  
(571) 272-3422 or 703- 756 -1580

Jeffrey R. Kurin  
Fliesler Meyer  
650 California Street, 14<sup>th</sup> Floor  
San Francisco, CA 94108

ej





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**FLIESLER MEYER LLP  
650 CALIFORNIA STREET  
14TH FLOOR  
SAN FRANCISCO CA 94108**

**MAILED  
JUN 02 2011  
OFFICE OF PETITIONS**

In re Patent No. 7,908,306	:	
Issue Date: March 15, 2011	:	
Application No. 10/805,596	:	ON PETITION
Filed: March 19, 2004	:	
Attorney Docket No. ELAN-01187US1	:	

This is a decision on the petition filed April 14, 2011, which is being treated as a request under 37 CFR 3.81(b)<sup>1</sup> to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-2991. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/Terri Johnson/  
Terri Johnson  
Petitions Examiner  
Office of Petitions

<sup>1</sup> See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.





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Alexandria, VA 22313-1450  
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KNOBLE, YOSHIDA & DUNLEAVY  
EIGHT PENN CENTER  
SUITE 1350  
1628 JOHN F KENNEDY BLVD  
PHILADELPHIA, PA 19103

**MAILED**

**AUG 04 2010**

**OFFICE OF PETITIONS**

In re Patent of Suyker et al. :  
Patent No. 7,666,198 :  
Issue Date: February 23, 2010 :  
Application No. 10/805,714 :  
Filing Date: March 22, 2004 :  
Attorney Docket No. DVME-1003USDIV4 :

Decision on Petition

This is a decision responding to the "Request for Reconsideration of Dismissal of Request for Recalculation of Patent Term Adjustment in View of Wyeth" filed April 27, 2010, which is being treated as a petition under 37 C.F.R. § 1.181.

The petition is **dismissed**.

The Office mailed an "Issue Notification" on February 3, 2010. The notification indicated the patent would issue on February 23, 2010, and include a patent term adjustment of 537 days.

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" form and a corresponding instruction form were filed February 16, 2010. The instruction form stated in bold, "Do not use form if the application has been allowed, but not yet issued as a patent."

The patent issued February 23, 2010.

The Office issued a decision dismissing the February 16, 2010 request on April 21, 2010.

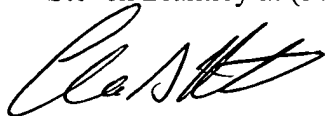
The instant petition was filed April 27, 2007.

The Office has reviewed the record and determined the decision mailed April 21, 2010, properly dismissed the February 16, 2010. Specifically, the February 16, 2010 request was untimely because the request was filed prior to issuance of the patent.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted.



Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'C. Brantley', with a stylized flourish at the end.

Charles Steven Brantley  
Senior Petitions Attorney  
Office of Petitions





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United States Patent and Trademark Office  
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KNOBLE, YOSHIDA & DUNLEAVY  
EIGHT PENN CENTER  
SUITE 1350, 1628 JOHN F KENNEDY BLVD  
PHILADELPHIA, PA 19103

Mail Date: 02/18/2011

**Applicant** : Wilhelmus Joseph Leonardus Suyker : DECISION ON REQUEST FOR  
**Patent Number** : 7666198 : RECALCULATION of PATENT  
**Issue Date** : 02/23/2010 : TERM ADJUSTMENT IN VIEW  
**Application No** : 10/805,714 : OF WYETH AND NOTICE OF INTENT TO  
**Filed** : 03/22/2004 : ISSUE CERTIFICATE OF CORRECTION  
:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **768** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**DATE** : October 29, 2010

**TO SPE OF** : ART UNIT 2464

**SUBJECT** : Request for Certificate of Correction for Appl. No/11/397949/ 7656897

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)  
Randolph Square – 9D10-A  
Palm Location 7580**

**Magdalene Talley**

Certificates of Correction Branch  
**571-272-0423** \_\_\_\_\_

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

**Specify below which changes **do not** apply.**

☐ **Denied**

**State the reasons for denial below.**

**Comments:** OK to enter.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

/Ricky Ngo/





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BOSE MCKINNEY & EVANS LLP  
111 Monument Circle  
Suite 2700  
INDIANAPOLIS IN 46204

MAILED

AUG 02 2010

In re Application of	:	OFFICE OF PETITIONS
Kuhr et al.	:	
Application No. 10/806,483	:	
Filed: March 22, 2004	:	ON APPLICATION FOR
Attorney Docket No. 9134-0252	:	PATENT TERM ADJUSTMENT
Title: LANCING AID COMPRISING A	:	
LANCET SYSTEM THAT IS PROTECTED	:	
AGAINST RE-USE	:	

This is in response to the "APPLICATION TO CORRECT PATENT TERM ADJUSTMENT PURSUANT TO 37 C.F.R §1.705" filed April 21, 2010. This request is properly treated under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is six hundred sixty-one (661) days, not five hundred thirty (530) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of



issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee<sup>1</sup>.

---

<sup>1</sup> For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

A handwritten signature in dark ink, appearing to read 'Anthony Knight', is positioned above the printed name.

Anthony Knight  
Director  
Office of Petitions





UNITED STATES PATENT AND TRADEMARK OFFICE

9-30-2010

Commissioner for Patents  
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Patent No. : 7,785,338 B2  
Ser. No. : 10/806,483  
Inventor(s) : Kuhr, et. al.  
Issued : August 31, 2010

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing incorrect or erroneous assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1.17(i) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

*In the Request*, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450



By hand: Customer Service Window  
Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

By fax: (703) 872-9306  
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James  
For Mary Diggs  
Decisions & Certificates  
of Correction Branch  
(703) 756-1583 or 1580

Michael C. Bartol  
Bose McKinney & Evans LLP  
Indianapolis, Indiana 46204

ej



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**BOSE  
McKINNEY  
& EVANS LLP**

ATTORNEYS AT LAW

10/806 483

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## FAX TRANSMITTAL SHEET

DATE/TIME: 2/24/2011

NO. PAGES: 4

TO: ATTN: Office of Petitions

FAX NO.: 915712738300

COMPANY: Commissioner for Patents

PHONE NO.:

FROM: Mr. Michael Bartol

FAX NO.: 317-223-0160

COMPANY: Bose McKinney & Evans

PHONE NO.: 317-684-5281

MEMO: Attached please find our Request to Correct the Assignee Under 37 CFR 3.81(b).

**If you experience any problems in receiving any of these pages, please call the Copy Center as soon as possible at (317) 684-5144. Thank you.**

**CONFIDENTIALITY NOTICE:** The materials enclosed with this facsimile transmission are private and confidential and are the property of the sender. The information contained in the material is privileged and is intended only for the use of the individual(s) or entity(ies) named below. If you are not the intended recipient, be advised that any unauthorized disclosure, copying, distribution or the taking of any action in reliance on the contents of this telecopied information is strictly prohibited. If you have received this facsimile transmission in error, please immediately notify us by telephone to arrange for return of the forwarded documents to us.



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**BOSE McKINNEY & EVANS LLP**

**CUSTOMER NUMBER 64108**

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Suite 2700  
Indianapolis, Indiana 46204  
(317) 684-5000

PATENT APPLICATION

*IN THE UNITED STATES PATENT AND TRADEMARK OFFICE*

Applicant(s):	Kuhr, et al.	}	Attorney Docket No. 9134-0252
Title:	LANCING AID COMPRISING A LANCET SYSTEM THAT IS PROTECTED AGAINST RE-USE	}	Group No. 3731
Serial No.:	10/806,483	}	Examiner: Amy T. Lang
Filed:	March 22, 2004	}	Confirmation No. 2791

REQUEST TO CORRECT THE ASSIGNEE UNDER 37 C.F.R. § 3.81(b)

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicant requests that the name of the Assignee be corrected pursuant to 37 C.F.R. § 3.81(b). The failure to include the correct Assignee name of Roche Diagnostics Operations, Inc. on Form PTOL-85B was inadvertent. Attached is a Patent Assignment Abstract of Title that indicates the Assignment was recorded on 8/13/2004, Reel 015062, Frame 0113.

Applicant submits that the error was made by the Applicant, and authorizes the U.S. Patent and Trademark Office to charge \$130.00 representing fees that are due in connection with this request to Bose McKinney & Evans LLP's Deposit Account Number 02-3223.

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03/04

Please forward this request to the Certificates of Correction Branch for issuance of a Certificate of Correction if the request is granted.

Respectfully submitted,

BOSE McKINNEY & EVANS LLP



Atty. of Record: Michael C. Bartol

Reg. No.: 44,025

Date Submitted: February 24, 2011

Bose McKinney & Evans LLP  
Indianapolis, Indiana 46204  
(317) 684-5000

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Page 1 of 1

10/806,483 LANCING AID COMPRISING A LANCET SYSTEM THAT IS PROTECTED AGAINST RE-USE 04-21-2010::17:19:21

**Patent Assignment Abstract of Title**

**Total Assignments: 2**

Application #: 10806483

Filing Dt: 03/22/2004

Patent #: NONE

Issue Dt:

PCT #: NONE

Publication #: US20040260325

Pub Dt: 12/23/2004

Inventors: Hans-Juergen Kuhr, Thomas Weiss, Peter Sachsenweger, Karl-Peter Ebert, Richard Forster

Title: LANCING AID COMPRISING A LANCET SYSTEM THAT IS PROTECTED AGAINST RE-USE

**Assignment: 1**

Reel/Frame: 015062 / 0110

Received: 08/13/2004

Recorded: 08/13/2004

Mailed: 09/01/2004

Pages: 3

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignors: KUHR, HANS-JUERGEN

Exec Dt: 07/23/2004

WEISS, THOMAS

Exec Dt: 07/19/2004

FORSTER, RICHARD

Exec Dt: 07/30/2004

SACHSENWEGER, PETER

Exec Dt: 08/02/2004

EBERT, KARL-PETER

Exec Dt: 07/19/2004

Assignee: ROCHE DIAGNOSTICS GMBH

SANDHOFERSTRASSE 116

68305 MANNHEIM, GERMANY

Correspondent: ROCHE DIAGNOSTICS CORPORATION

SUJATHA SUBRAMANIAM

9115 HAGUE ROAD

PO BOX 50457

INDIANAPOLIS, IN 46250-0457

**Assignment: 2**

Reel/Frame: 015062 / 0113

Received: 08/13/2004

Recorded: 08/13/2004

Mailed: 09/01/2004

Pages: 2

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignor: ROCHE DIAGNOSTICS GMBH

Exec Dt: 08/10/2004

Assignee: ROCHE DIAGNOSTICS OPERATIONS, INC.

9115 HAGUE ROAD

INDIANAPOLIS, INDIANA 46250

Correspondent: ROCHE DIAGNOSTICS CORPORATION

SUJATHA SUBRAMANIAM

9115 HAGUE ROAD

PO BOX 50457

INDIANAPOLIS, INDIANA 46250-0457

Search Results as of: 04/21/2010 17:19:12 PM

**Disclaimer:**

Assignment information on the assignment database reflects assignment documents that have been actually recorded.

If the assignment for a patent was not recorded, the name of the assignee on the patent application publication or patent may be different.

If you have any comments or questions concerning the data displayed, contact OPR / Assignments at 571-272-3350

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DICKINSON WRIGHT PLLC  
38525 WOODWARD AVENUE  
SUITE 2000  
BLOOMFIELD HILLS, MI 48304-2970

**MAILED**

**DEC 07 2010**

**OFFICE OF PETITIONS**

In re Application of	:	
Ronald Thomas	:	
Application No. 10/806,552	:	DECISION ON PETITION
Filed: March 23, 2004	:	
Attorney Docket No. 0114-00208	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2010, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 15, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 16, 2009.




The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$810, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1791 for appropriate action by the Examiner in the normal course of business on the reply received October 7, 2010.

  
April M. Wise  
Petitions Examiner  
Office of Petitions

cc: JOHN E. NEMAZI  
1000 TOWN CENER  
22<sup>ND</sup> FLOOR  
SOUTHFIELD, MI 48075





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**MAILED**

**FEB 09 2012**

**OFFICE OF PETITIONS**

The Lubrizol Corporation  
29400 Lakeland Blvd.  
Wickliffe OH 44092-2298

In re Application of :  
Sivik et al. :  
Application No. 10/806,591 :  
Filed: March 23, 2004 : **DECISION ON PETITION**  
Attorney Docket No. 3258 : **UNDER 37 C.F.R. § 1.137(B)**  
Title: FUNCTIONALIZED POLYMER :  
COMPOSITION FOR GREASE :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed January 23, 2012, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. § 1.113 in a timely manner to the final Office action mailed June 7, 2001, which set a shortened statutory period for reply of three months. An after-final amendment was received on December 6, 2011 along with a three-month extension of time so as to make timely the response, and an advisory action was mailed on December 13, 2011. No additional extensions of time under the provisions of 37 C.F.R. § 1.136(a) were available, and no further responses were received. Accordingly, the above-identified application became abandoned on December 8, 2011. On December 22, 2011, a Request for Continued Examination (RCE) was filed, along with the required fee, and an amendment. A notice of abandonment was mailed on December 28, 2011.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by



37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

On January 23, 2012, Petitioner filed a RCE along with the associated fee, an amendment, the petition fee, and a statement that is being construed as the proper statement of unintentional delay. The amendment of January 23, 2012 has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1). As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.<sup>1</sup>

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on January 23, 2012 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

It is noted that the fee that is associated with the filing of an RCE has been submitted twice. The duplicate payment is not necessary, and will be refunded to Deposit Account No. 12-2275 in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.<sup>2</sup> All other inquiries

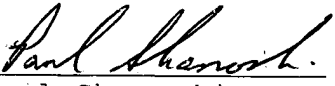
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<sup>1</sup> See Rule 1.137(d).

<sup>2</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).



concerning examination procedures or status of the application should be directed to the Technology Center.

  
Paul Shanoski  
Senior Attorney  
Office of Petitions





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United States Patent and Trademark Office  
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Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

FOLEY & LARDNER LLP  
111 HUNTINGTON AVENUE  
26TH FLOOR  
BOSTON MA 02199-7610

**MAILED**

**DEC 13 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,416,267	:
Anish N. Puri	:
Issue Date: August 26, 2008	: DECISION ON REQUEST FOR
Application No. 10/806,627	: RECONSIDERATION OF
Filed: March 23, 2004	: PATENT TERM ADJUSTMENT
Attorney Docket No. 069532-0284	: AND NOTICE OF INTENT
Title: 069532-0284	: TO ISSUE CERTIFICATE OF
	: CORRECTION
	:

This is a decision on the petition filed on October 24, 2008, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred fifty-four (554) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 276 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 522 days.

The time taken up by the notice of appeal is excluded from the period of B-delay pursuant to 37 CFR 1.703(b)(4) in connection with the Notice of Appeal filed April 7, 2008. The reduction of 29 days commenced April 7, 2008; the date that the Notice of Appeal was filed, and ended May 5, 2008, the day the Notice of Allowance was mailed. See, 37 CFR 1.703(b)(4).

Patentee's delay totals 244 days.



In view thereof, the patent is entitled to an overall adjustment of 525 days.

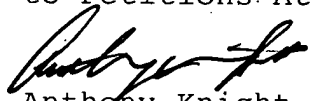
The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred twenty-five (525) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

  
Anthony Knight  
Director  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7416267 B2

DATED : August 26, 2008

**DRAFT**

INVENTOR(S): Puri

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 278 days

Delete the phrase "by 278 days" and insert -- by 525 days--



Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	<b>PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)</b>	
Application Number	10806779	
Filing Date	23-Mar-2004	
First Named Inventor	John Speare	
Art Unit	2191	
Examiner Name	TED VO	
Attorney Docket Number	MS#304047.01 (5226)	
Title	METHOD FOR UPDATING DATA IN ACCORDANCE WITH RIGHTS MANAGEMENT POLICY	
<p>An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.</p> <p>APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).</p> <p>A grantable petition requires the following items:</p> <p>(1) Petition fee; and</p> <p>(2) One of the following reasons:</p> <p>(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;</p> <p>(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or</p> <p>(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).</p>		
<p>Petition Fee</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY</p>		
Reason for withdrawal from issue		



- ☐ One or more claims are unpatentable
- ☒ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)
- ☐ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request, submission, and fee.

- ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that:
- ☐ The RCE request, submission, and fee have already been filed in the above-identified application on
- ☒ Are attached.

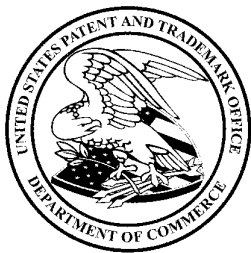
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ☐ A joint inventor; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Adam L. Bagwell/
Name	Adam L. Bagwell
Registration Number	67043





## UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Decision Date : October 13,2011

In re Application of :

John Speare

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10806779

Filed : 23-Mar-2004

Attorney Docket No : MS#304047.01 (5226)

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed October 13,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

**Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2191 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions





# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE -  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,980	03/22/2004	Yin L. Cheung	33849-8	2205

30903	7590	04/29/2011
CRAIN, CATON & JAMES FIVE HOUSTON CENTER 1401 MCKINNEY, 17TH FLOOR HOUSTON, TX 77010		

EXAMINER	
NGUYEN, PHU K	

ART UNIT	PAPER NUMBER
2628	

NOTIFICATION DATE	DELIVERY MODE
04/29/2011	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

wjensen@craincaton.com  
jHUDSON@craincaton.com  
ipdocket@craincaton.com





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CRAIN, CATON & JAMES  
FIVE HOUSTON CENTER  
1401 MCKINNEY, 17TH FLOOR  
HOUSTON TX 77010

In re application of  
CHEUNG, YIN L., et al.  
Application Serial No. 10/806,980  
Filed: March 22, 2004  
For: **SYSTEM AND METHOD FOR  
ANALYZING AND IMAGING THREE-  
DIMENSIONAL VOLUME DATA SETS  
USING A THREE-DIMENSIONAL  
SAMPLING PROBE**

DECISION  
ON PETITION

This is a response to the petition under 37 CFR 1.59, filed February 18, 2011, to expunge information from the above identified application.

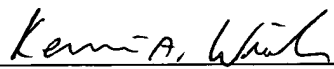
The decision on the petition will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in an Information Disclosure Statement filed February 18, 2010 be expunged from the record. Petitioner states that the Information Disclosure Statement was unintentionally submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to applicant.

The document(s) in question will not be available to the public during prosecution.

  
Kenneth A. Wieder  
Quality Assurance Specialist  
Technology Center 2600  
Communications





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P.O. BOX 1022  
MINNEAPOLIS, MN 55440-1022

**MAILED**  
**APR 04 2012**  
**OFFICE OF PETITIONS**

In re Application of Dodge et al.	:	
Application No. 10/807,031	:	DECISION ON APPLICATION FOR
Filed: March 23, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 12587-043001	:	

This is in response to the "Application for Patent Term Adjustment under 37 C.F.R. § 1.705(b)" filed February 15, 2012, which requests the initial determination of patent term adjustment be corrected from one thousand two hundred ninety-six (1,296) days to one thousand two hundred and ninety-nine (1,299) days.

The application for patent term adjustment is **granted**.

The Office has updated the Office's PALM database to reflect the correct patent term adjustment determination at the time of the mailing of the Notice of Allowance is 1,299 days. A copy of an updated PALM screen showing the correct determination is enclosed.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the application on December 12, 2011, which advised Applicants of a patent term adjustment to date of 1,296 days. In response, Applicants timely filed this application for patent term adjustment with payment of the issue fee on March 12, 2012.

Applicants request that the patent term adjustment be corrected to 1,299 days based on an argument the Office's entry of a 3-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b) was improper.

The Office entered a three-day reduction in patent term adjustment as a result of Applicants submitting a reply on September 7, 2004, in response to a notice mailed June 4, 2004.

When the three-month deadline to reply to an Office action or notice falls on a weekend or holiday, and a response is filed on the next business day, a reduction in patent term adjustment under 37 C.F.R. § 1.704(b) is inappropriate. In this case, the date three months after the issuance of the June 4, 2004 notice fell on a weekend and a reply to the notice was filed on the next business day. Therefore, entry of the three-day reduction in patent term adjustment was improper.



In view of the prior discussion, the correct patent term adjustment at the time of mailing of the notice of allowance is 1,299 days

Submission of the \$200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.



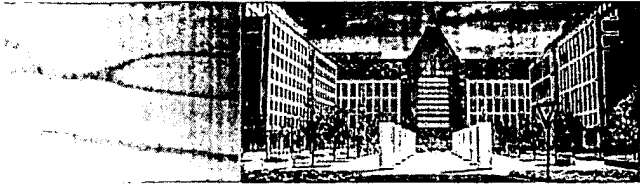
Charles Steven Brantley  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of REVISED PALM screen





# Patent Term Adjustments



PTA/PTE Information    Patent Term Adjustment    Patent Term Extension

Application Number\*: 10807031

[Explanation of PTA Calculation](#)

[Explanation of PTE Calculation](#)

PTA Calculations for Application: **10807031**

Application Filing Date	03/23/2004	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays	1299
A Delays	1299	PTO Manual Adjustment	3
B Delays	0	Applicant Delay (APPL)	3
C Delays	0	Total PTA (days)	1299

\* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
125	03/29/2012		P028	Adjustment of PTA Calculation by PTO	3		0
116	12/12/2011		MN/=.	Mail Notice of Allowance			0
115	12/05/2011		OAR	Office Action Review			0
114	12/05/2011		OAR	Office Action Review			0
113	12/05/2011		OAR	Office Action Review			0
112	12/05/2011		IREV	Issue Revision Completed			0
111	11/30/2011		OAR	Office Action Review			0
110	11/30/2011		OAR	Office Action Review			0
109	11/30/2011		OAR	Office Action Review			0
108	11/30/2011		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
107	11/30/2011		N/=.	Notice of Allowance Data Verification Completed			0
106	11/30/2011		DOCK	Case Docketed to Examiner in GAU			0
105	11/30/2011		DVER	Document Verification			0
104	11/30/2011		EX.R	Reasons for Allowance			0
103	11/30/2011		EX.A	Examiner's Amendment Communication			0
102	11/30/2011		CNTA	Allowability Notice			0
98	11/03/2011		ABN9	Disposal for a RCE / CPA / R129			0
101	11/02/2011		IDSC	Information Disclosure Statement considered			0
100	11/02/2011		EIDS.	Electronic Information Disclosure Statement			0
99	11/02/2011		RCEX	Request for Continued Examination (RCE)			0
97	11/02/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
96	11/02/2011		BRCE	Workflow - Request for RCE - Begin			0
95	09/08/2011		FIDC	Finished Initial Data Capture			0
94	09/02/2011		REAS	Response to Reasons for Allowance			0
93	08/05/2011		EIDC	Export to Initial Data Capture			0
92	08/04/2011		ELC_RVW	Electronic Review			0
91	08/04/2011		EML_NTF	Email Notification			0
90	08/04/2011	05/18/2011	MN/=.	Mail Notice of Allowance	78		68
89	08/01/2011		IREV	Issue Revision Completed			0
84	07/19/2011		DVER	Document Verification			0
83	07/19/2011		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
78	07/19/2011		N/=.	Notice of Allowance Data Verification Completed			0
77	07/19/2011		DOCK	Case Docketed to Examiner in GAU			0
88	05/03/2011		OAR	Office Action Review			0
87	05/03/2011		OAR	Office Action Review			0
86	05/03/2011		OAR	Office Action Review			0
85	05/03/2011		OAR	Office Action Review			0
82	05/03/2011		OAR	Office Action Review			0
81	05/03/2011		OAR	Office Action Review			0
80	05/03/2011		OAR	Office Action Review			0
79	05/03/2011		OAR	Office Action Review			0
76	05/03/2011		EX.R	Reasons for Allowance			0
75	05/03/2011		EX.A	Examiner's Amendment Communication			0
74	05/03/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
73	05/03/2011		CNTA	Allowability Notice			0
69	01/28/2011		FWDX	Date Forwarded to Examiner			0
67	01/26/2011		APBR	Appeal Brief Review Complete			0
68	01/18/2011		AP.B	Appeal Brief Filed			0
66	01/18/2011		XT/G	Request for Extension of Time - Granted			0
65	10/21/2010		N/AP	Notice of Appeal Filed			0
64	09/30/2010		EML_NTR	Email Notification			0
63	09/30/2010		MCTAV	Mail Advisory Action (PTOL - 303)			0
62	09/27/2010		CTAV	Advisory Action (PTOL-303)			0
61	09/21/2010		FWDX	Date Forwarded to Examiner			0
60	09/21/2010		A.NE	Amendment after Final Rejection			0



59	07/22/2010	ELC_RVW	Electronic Review		0
58	07/22/2010	EML_NTF	Email Notification		0
57	07/22/2010	MCTFR	Mail Final Rejection (PTOL - 326)		0
56	07/19/2010	CTFR	Final Rejection		0
55	05/04/2010	FWDX	Date Forwarded to Examiner		0
54	04/21/2010	A...	Response after Non-Final Action		0
53	01/21/2010	ELC_RVW	Electronic Review		0
52	01/21/2010	EML_NTF	Email Notification		0
51	01/21/2010	MCTNF	Mail Non-Final Rejection		0
50	01/17/2010	CTNF	Non-Final Rejection		0
49	11/05/2009	FWDX	Date Forwarded to Examiner		0
47	11/05/2009	FWDX	Date Forwarded to Examiner		0
45	11/05/2009	ABN9	Disposal for a RCE / CPA / R129		0
48	11/03/2009	AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0
46	11/03/2009	RCEX	Request for Continued Examination (RCE)		0
44	11/03/2009	BRCE	Workflow - Request for RCE - Begin		0
43	10/23/2009	EML_NTR	Email Notification		0
42	10/23/2009	MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0
41	10/14/2009	EXIN	Examiner Interview Summary Record (PTOL - 413)		0
40	08/03/2009	ELC_RVW	Electronic Review		0
39	08/03/2009	EML_NTF	Email Notification		0
38	08/03/2009	MCTFR	Mail Final Rejection (PTOL - 326)		0
37	07/30/2009	CTFR	Final Rejection		0
36	05/30/2009	FWDX	Date Forwarded to Examiner		0
34	04/27/2009	EML_NTR	Email Notification		0
33	04/27/2009	MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0
35	04/23/2009	A...	Response after Non-Final Action		0
32	04/16/2009	EXIN	Examiner Interview Summary Record (PTOL - 413)		0
31	02/06/2009	ELC_RVW	Electronic Review		0
30	02/06/2009	EML_NTF	Email Notification		0
29	02/06/2009	MCTNF	Mail Non-Final Rejection		0
28	02/02/2009	CTNF	Non-Final Rejection		0
22	11/20/2008	FWDX	Date Forwarded to Examiner		0
23	10/27/2008	A.PE	Preliminary Amendment		0
21	10/27/2008	ELC.	Response to Election / Restriction Filed		0
20	09/25/2008	ELC_RVW	Electronic Review		0
19	09/25/2008	EML_NTF	Email Notification		0
18	09/25/2008	05/23/2005 MCTRS	Mail Restriction Requirement	1221	0.5
17	09/19/2008	CTRS	Restriction/Election Requirement		0
16	08/20/2008	DOCK	Case Docketed to Examiner in GAU		0
15	01/30/2008	DOCK	Case Docketed to Examiner in GAU		0
14	10/20/2004	TSSCOMP	IFW TSS Processing by Tech Center Complete		0
12	10/19/2004	DOCK	Case Docketed to Examiner in GAU		0
11	09/24/2004	WROIPE	Application Return from OIPE		0
10	09/24/2004	ROIPE	Application Return TO OIPE		0
9	09/24/2004	OIPE	Application Dispatched from OIPE		0
8	09/24/2004	COMP	Application Is Now Complete		0
27	09/07/2004	IDSC	Information Disclosure Statement considered		0
13.7	09/07/2004	M844	Information Disclosure Statement (IDS) Filed		0
13	09/07/2004	WIDS	Information Disclosure Statement (IDS) Filed		0
7	09/07/2004	09/04/2004 ADDLFEE	Additional Application Filing Fees	2	5
6	09/07/2004	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant		0
5	06/04/2004	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned		0
4	04/16/2004	L194	Cleared by OIPE CSR		0
3	04/16/2004	CLSS	CASE CLASSIFIED BY OIPE		0
2	04/03/2004	SCAN	IFW Scan & PACR Auto Security Review		0
1	03/23/2004	IEXX	Initial Exam Team nn		0
0.5	03/23/2004	EFILE	Filing date		0

Export to: [Excel](#)





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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
LLP  
901 NEW YORK AVENUE, NW  
WASHINGTON DC 20001-4413

**MAILED**

DEC 02 2010

**OFFICE OF PETITIONS**

In re Application of :  
Kazutaka Akiyama :  
Application No. 10/807,274 : **DECISION ON PETITION**  
Filed: March 24, 2004 :  
Attorney Docket No. 04173.0446 :

This is a decision on the petition, filed June 15, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed November 27, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on May 25, 2010.

Petitioner asserts that the Office action dated November 27, 2009, was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and
3. a copy of the master docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.



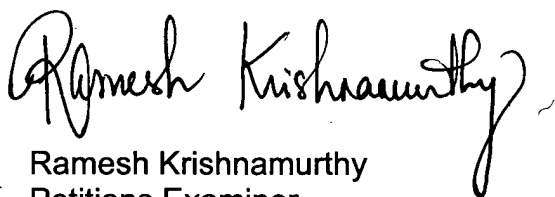
See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

This application is being referred to the Technology Center technical support staff of Art Unit 2826 for re-mailing the final Office action of November 27, 2009 and the Office communication mailed October 15, 2009. The period for reply will run from the mailing date of the final Office action.

A handwritten signature in black ink, reading "Ramesh Krishnamurthy". The signature is fluid and cursive, with the first name "Ramesh" and last name "Krishnamurthy" clearly distinguishable.

Ramesh Krishnamurthy  
Petitions Examiner  
Office of Petitions





## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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1000 TOWN CENTER  
TWENTY-SECOND FLOOR  
SOUTHFIELD, MI 48075

Mail Date: 08/12/2010

<b>Applicant</b>	: Kevin Jump	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7654500	: RECALCULATION of PATENT
<b>Issue Date</b>	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/807,506	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 03/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.





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OFFICE OF COUNSEL CODE OC4  
NAVAL SURFACE WARFARE CENTER  
INDIAN HEAD DIVISION  
101 STRAUSS AVE., BLDG. D-31  
INDIAN HEAD MD 20640-5035

**MAILED**  
**APR 14 2011**  
**OFFICE OF PETITIONS**

In re Patent No. 7,036,420  
Issue Date: May 02, 2006  
Application No. 10/807,573  
Filed: March 18, 2004  
Attorney Docket No. 95,884

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed January 04, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

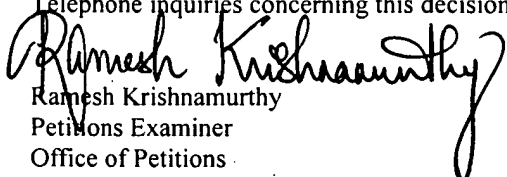
The petition is **GRANTED**.

This patent expired at midnight on May 02, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

  
Ramesh Krishnamurthy  
Petitions Examiner  
Office of Petitions

cc: **FREDRIC J. ZIMMERMAN**  
**DEPARTMENT OF THE NAVY**  
**OFFICE OF COUNSEL, BLDG. D-31**  
**3824 STRAUSS AVE., SUITE 103**  
**INDIAN HEAD MD 20640-5152**





## UNITED STATES PATENT AND TRADEMARK OFFICE

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[www.uspto.gov](http://www.uspto.gov)

In re Patent No. 7021713 :  
Issue Date: April 4, 2006 :  
Application No. 10807865 :DECISION GRANTING PETITION  
Filed: March 23, 2004 :UNDER 37 CFR 1.378(c)  
Attorney Docket No. H00402DY :

This is a decision on the electronic petition, filed August 4, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 4, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,021,713	2006-04-04	10/807,865	2004-03-23	

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/>            | 7 ½ year  | (1552) |
| <input type="radio"/>            | 11 ½ year | (1553) |

### Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/> | 7 ½ year  | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark A. Ussai/	Date (YYYY-MM-DD)	2010-08-04
Name	Mark A. Ussai	Registration Number	42195
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





## UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 7185472 :  
Issue Date: March 6, 2007 :  
Application No. 10807895 :DECISION GRANTING PETITION  
Filed: March 24, 2004 :UNDER 37 CFR 1.378(c)  
Attorney Docket No. LOSAS-0600 :

This is a decision on the electronic petition, filed April 19, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 19, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,185,472	2007-03-06	10/807,895	2004-03-24	LOSAS-0600

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Roberto J Rios Cuevas/	Date (YYYY-MM-DD)	2011-04-19
Name	Roberto J Rios Cuevas	Registration Number	56145
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



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3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7017510	2006-03-28	10808080	2004-03-24	37482

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

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PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeffrey A. Proehl/	Date (YYYY-MM-DD)	2011-02-23
Name	Jeffrey A. Proehl	Registration Number	35987
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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In re Patent No.	7017510	:
Issue Date:	March 28, 2006	
Application No.	10808080	:DECISION GRANTING PETITION
Filed:	March 24, 2004	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	24-0128	:

This is a decision on the electronic petition, filed February 23, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 23, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.





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Samuel B. Rollins  
Kilpatrick Stockton LLP  
1001 West Fourth Street  
Winston-Salem NC 27101

In re Application of :  
Joel M. Linden et al. :  
Application No. 10/808,093 : NOTICE  
Filed: March 23, 2004 :  
Attorney Docket No. **U0037-298464** :

This is a notice regarding your request filed August 13, 2010, for acceptance of a fee deficiency submission under 37 CFR 1.28.

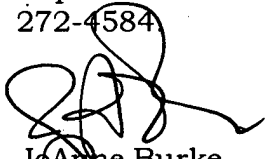
There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of John P. Zimmer appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, John P. Zimmer desires to be acknowledged as the attorney of record in this file, the appropriate power of attorney documents must be submitted.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent/application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584

  
JoAnne Burke  
Petitions Examiner  
Office of Petitions



<b>Doc Code: PET.AUTO</b> <b>Document Description: Petition automatically granted by EFS-Web</b>		PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	<b>REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS</b>	
Application Number	10808166	
Filing Date	24-Mar-2004	
First Named Inventor	Gregory Singerle	
Art Unit	2457	
Examiner Name	BLAKE RUBIN	
Attorney Docket Number	048556/274149	
Title	System, method and computer program product for authenticating a client	
<input checked="" type="radio"/> Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: <span style="float: right;">00826</span>		
The reason(s) for this request are those described in 37 CFR: 10.40(b)(4)		
Certifications		
<input checked="" type="checkbox"/> I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment		
<input checked="" type="checkbox"/> I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled		
<input checked="" type="checkbox"/> I/We have notified the client of any responses that may be due and the time frame within which the client must respond		
Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:		
Name	Authenticatid Corp. 150 Middleton Drive	
Address	Suite 100	
City	Charlotte	
State	NC	
Postal Code	28203	
Country	US	



I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Guy R. Gosnell/
Name	GUY R. GOSNELL
Registration Number	34610





## UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Decision Date : October 7, 2011

In re Application of :

Gregory Singerle

Application No : 10808166

Filed : 24-Mar-2004

Attorney Docket No : 048556/274149

DECISION ON REQUEST TO WITHDRAW AS  
ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 7, 2011

The request is **APPROVED**.

The request was signed by GUY R. GOSNELL (registration no. 34610 ) on behalf of all attorneys/agents associated with Customer Number 00826 . All attorneys/agents associated with Customer Number 00826 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name Authenticatid Corp.  
Name2 150 Middleton Drive  
Address 1 Suite 100  
Address 2  
City Charlotte  
State NC  
Postal Code 28203  
Country US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions





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UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,760	03/25/2004	Valery Golender	MUTEK.009A	6070
20995 7590 06/20/2011 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER SMITH, CHENECA	
			ART UNIT 2192	PAPER NUMBER
			NOTIFICATION DATE 06/20/2011	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
efiling@kmob.com  
eOAPilot@kmob.com





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June 20, 2011

KNOBBE MARTENS OLSON & BEAR LLP  
2040 MAIN STREET  
FOURTEENTH FLOOR  
IRVINE CA 92614

In re Application of :  
Valery Golender et al. : **DECISION ON PETITION**  
Application No. 10808760 :  
Filed: 3/25/2004 :  
Attorney Docket No. MUTEK.009A :

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R. 1.84(a)(2), received in the United States Patent and Trademark Office (USPTO) March 25, 2004.

The petition is **DISMISSED**.

A grantable petition under 37 C.F.R. 1.84(a)(2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFS filings), and
3. The specification containing the following language as the **first paragraph in** that portion of the specification relating to **the brief description of the drawings**.

*"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."*

The petition did not meet the following requirement(s). 1 ☐ 2 ☐ 3 ☒

A paragraph was provided, but misplaced at paragraph [0002] of the specification. It must be the first paragraph in the brief description, i.e., preceding paragraph [0009] on page 3.

***A renewed petition filed under 37 C.F.R. 1.84(a)(2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.***

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.



/Don Fairchild/  
Office of Data Management  
Publications Branch





UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

September 1, 2011

Brake Hughes Bellermann LLP  
c/o CPA Global  
P.O. Box 52050  
Minneapolis MN 55402

In re Application of	:	
Valery Golender et al.	:	<b>DECISION ON PETITION</b>
Application No. 10808760	:	
Filed: 3/25/2004	:	<b>ACCEPTANCE OF COLOR</b>
Attorney Docket No. 0081-131001	:	<b>DRAWINGS</b>

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R. 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) August 18, 2011.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquiries relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Don Fairchild/  
Office of Data Management  
Publications Branch



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6901694	2005-06-07	10808770	2004-03-25	110537

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                                 | Fee | Code   |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year  |     | (1551) |
| <input type="radio"/> 7 ½ year  |     | (1552) |
| <input type="radio"/> 11 ½ year |     | (1553) |

### Small Entity

- |   | Fee | Code   |
|---|-----|--------|
| <input checked="" type="radio"/> 3 ½ year |     | (2551) |
| <input type="radio"/> 7 ½ year            |     | (2552) |
| <input type="radio"/> 11 ½ year           |     | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Erin R. Ogden/	Date (YYYY-MM-DD)	2011-03-08
Name	Erin R. Ogden	Registration Number	55507
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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In re Patent No. 6901694  
Issue Date: June 7, 2005  
Application No. 10808770  
Filed: March 25, 2004  
Attorney Docket No. 1185

:

:DECISION GRANTING PETITION  
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed March 8, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 8, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.





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OFFICE OF PETITIONS

KIRTON AND MCCONKIE  
60 EAST SOUTH TEMPLE,  
SUITE 1800  
SALT LAKE CITY, UT 84111

In re Application of  
Wang et al.  
Application No. 10/808,872  
Filed: March 24, 2004  
Attorney Docket No. 10209.476

:  
:  
:  
: DECISION DISMISSING PETITION  
: UNDER 37 CFR 1.78(a)(3) AND  
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed September 10, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition still does not comply with item (1).

The amendment submitted on September 10, 2010, with the renewed petition herein cannot be accepted since nonprovisional Application No. 10/993,883, filed November 19, 2004, was filed later than the above identified application. Petitioner is reminded that the parent filing date must be earlier or equal to the current applications' filing date.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment<sup>1</sup> deleting application No. 10/993,883 is required.

---

<sup>1</sup> Note 37 CFR 1.121



Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450

By hand: Customer Window located at:  
U.S. Patent and Trademark Office  
Customer Service Window Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

By fax: (571) 273-8300  
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Alicia Kelley at (571) 272-6059.

/Liana Walsh/  
Liana Walsh  
Petitions Examiner  
Office of Petitions





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KIRTON AND MCCONKIE  
60 EAST SOUTH TEMPLE,  
SUITE 1800  
SALT LAKE CITY, UT 84111

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OFFICE OF PETITIONS

In re Application of  
Wang et al.  
Application No. 10/808,872  
Filed: March 24, 2004  
Attorney Docket No. 10209.476

:  
:  
: DECISION GRANTING PETITION  
: UNDER 37 CFR 1.78(a)(3) AND  
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 2, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant application was filed on March 24, 2004 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). See 35 U.S.C. §§ 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.



*The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.*

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 1655 for appropriate action on the amendment submitted May 2, 2011, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

/Liana Walsh/  
Liana Walsh  
Petitions Examiner  
Office of Petitions

**ATTACHMENT:** Corrected Filing Receipt





# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
10/808,872	03/24/2004	1655	2308	10209.476	60	11

CONFIRMATION NO. 6611

## CORRECTED FILING RECEIPT



21999

KIRTON AND MCCONKIE  
60 EAST SOUTH TEMPLE,  
SUITE 1800  
SALT LAKE CITY, UT 84111

Date Mailed: 07/05/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

### Applicant(s)

Mian Ying Wang, Rockford, IL;  
Chen Xing Su, West Jordan, UT;  
Afa Kehaati Palu, Orem, UT;  
Bing-Nan Zhou, Pleasant Grove, UT;  
Brett Justin West, Orem, UT;  
Johannes Joseph Westendorf, Brernin, GERMANY;  
Claude Jarakae Jensen, Cedar Hills, UT;  
Stephen Paul Story, Alpine, UT;

### Power of Attorney:

Dale Hulse--29654  
William Pieprz--33630  
Anthony Fussner--47582  
Tamara Sampsell--52221  
Paul Speidel--52239

David Tingey--52289

### Domestic Priority data as claimed by applicant

This application is a CIP of 10/396,868 03/25/2003 ABN  
and claims benefit of 60/458,353 03/28/2003  
and is a CIP of 10/286,167 11/01/2002 PAT 6,855,345  
which claims benefit of 60/335,313 11/02/2001  
This application 10/808,872  
is a CIP of 10/285,359 10/31/2002 PAT 7,033,624  
which is a CIP of 10/006,014 12/04/2001 ABN  
which claims benefit of 60/251,416 12/05/2000



**Foreign Applications** (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.)

**If Required, Foreign Filing License Granted:** 06/04/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/808,872**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Selectively inhibiting estrogen production and providing estrogenic effects in the human body

**Preliminary Class**

424

## **PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES**

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific



countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

**LICENSE FOR FOREIGN FILING UNDER**  
**Title 35, United States Code, Section 184**  
**Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).





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**MAILED**

**MAY 06 2011**

**OFFICE OF PETITIONS**

**Jacobson and Johnson  
Suite 285  
One West Water Street  
St. Paul MN 55107-2080**

In re Patent No. 7,147,770 :  
Issue Date: December 12, 2006 :  
Application No. 10/808,931 : **ON PETITION**  
Filed: March 25, 2004 :  
Attorney Docket No. 5860 :

This is a decision on the petition under 37 CFR 1.378(c), filed February 22, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 13, 2010 for failure to pay the 3 1/2 – year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the promises of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-8427).

David Bucci  
Petitions Examiner  
Office of Petitions





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**DAVIS WRIGHT TREMAINE LLP –  
SANDISK CORPORATION  
505 MONTGOMERY STREET  
SUITE 800  
SAN FRANCISCO CA 94111**

**MAILED**

**DEC 06 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,688,643

Issue Date: March 30, 2010

Application No. 10/809,061

Filed: March 24, 2004

Attorney Docket No. SNDK.015US7

ON PETITION

This is a decision on the petition filed October 27, 2010, which is being treated as a request under 37 CFR 3.81(b)<sup>1</sup> to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/Thurman K. Page/  
Thurman K. Page  
Petitions Examiner  
Office of Petitions

<sup>1</sup> See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.





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**WEATHERFORD INTERNATIONAL, INC.**  
**515 POST OAK BLVD.**  
**SUITE 600**  
**HOUSTON TX 77027**

**MAILED**

**FEB 13 2012**

**OFFICE OF PETITIONS**

In re Patent No. 7,253,401	:	
Issue Date: August 07, 2007	:	
Application No. 10/809,066	:	DECISION ON PETITION
Filed: March 15, 2004	:	
Attorney Docket No. AES 04-001	:	

This is a decision on the petition under 37 CFR 1.378(c), filed January 18, 2012, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 07, 2011 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The patent file is being forwarded to Files Repository.

/Michelle R. Eason/  
Michelle R. Eason  
Paralegal Specialist  
Office of Petitions





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INTEL/BSTZ  
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP  
1279 OAKMEAD PARKWAY  
SUNNYVALE, CA 94085-4040

Mail Date: 08/24/2010

<b>Applicant</b>	: David M. Durham	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7653727	: RECALCULATION of PATENT
<b>Issue Date</b>	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/809,316	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 03/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1195** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.





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CONNOLLY BOVE LODGE & HUTZ LLP  
1875 EYE STREET, N.W.  
SUITE 1100  
WASHINGTON DC 20006

**MAILED**  
**OCT 20 2010**  
**OFFICE OF PETITIONS**

In re Asius et al.	:	DECISION ON REQUEST
Patent No. 7,731,758	:	FOR
Issue Date: June 8, 2010	:	RECONSIDERATION OF
Application No. 10/809,349	:	PATENT TERM ADJUSTMENT
Filed: March 26, 2004	:	and
Docket No. 22114-00001-US1	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on August 6, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand seven hundred forty-seven (1747) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand seven hundred forty-seven (1747) days is **GRANTED to the extent indicated herein.**

Patentees assert the total period of adjustment is 1747 days, which is the sum of 651 days of A delay and 499 days of B delay and 634 days C delay, reduced by 37 days of applicants' delay.

The Office concurs with patentees' assertion the period of A delay is 651 days. However, the Office's calculation of the period of A delay differs from patentees' calculation. Patentees argue that the Office should be charged a three (3) day adjustment, pursuant to 37 CFR 1.702(a)(3), for delay in mailing a Notice of Allowance on January 26, 2010, after the Board of Patent Appeals and Interferences (BPAI) mailed a decision on September 23, 2009 reversing the examiner.



37 CFR 1.705(d), provides that:

If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

A patentee is not permitted to raise an issue that could have been raised in an application for patent term adjustment under 37 CFR 1.705(b) in a petition under 37 CFR 1.705(d). If applicants did not agree with the lack of adjustment in connection with the mailing of the January 26, 2010 Notice of Allowance, the appropriate time to contest it would have been after the Notice of Allowance was mailed and prior to payment of the issue fee. The issue is untimely raised in a petition under 37 CFR 1.705(d) and will not be addressed.

The period of A delay is 651 days because the Office mailed a non-final Office action on March 8, 2007, 14 months and 651 days after the application was filed on March 26, 2004 (37 CFR 1.702(a)(1)).

The Office does not concur with patentees' assertion the period of B delay is 499 days. The Office concurs with patentees' assertion that the maximum B delay period begins on March 27, 2007, which is one day after three years after the filing of the application on March 26, 2004, and ends on June 8, 2010, when the patent issued.

As stated in 35 U.S.C. 154(b)(1)(B)(ii), B delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." The period of B delay does not include the 636 (not 634, as patentees' assert) day period beginning on December 28, 2007, the date the Notice of Appeal was filed, and ending on September 23, 2009, the date the Board of Patent Appeals and Interferences issued a decision reversing the examiner.



Applicant delay is not factored into the B delay equation.

Excluding the 636 days consumed by appellate review results in a period of B delay of 534 days (1170 - 636).

Although the 636 days consumed by appellate review is not part of the period of B delay, the 636 days does constitute delay under 35 U.S.C. 154(b)(1)(C) ("C delay"). In other words, the successful appellate period of 636 days is counted against the Office as a separate adjustment pursuant to 37 CFR 1.702(e) as C delay.

The Office concurs with Patentees' calculation of Applicant delay under 35 U.S.C. 154(b)(2)(C) as 37 days.

Patentees assert the total patent term adjustment is 1747 days. However, the patent term adjustment is 1784 days, which is the sum of 651 days of A delay and 534 days of B delay and 636 days of C delay reduced by 37 days of Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges receipt of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand seven hundred eighty-four (1784) days**.



Telephone inquiries should be directed to the undersigned at  
(571) 272-3230.

A handwritten signature in black ink, reading "Shirene Willis Brantley". The signature is written in a cursive, flowing style.

Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,731,758 B2

DATED : June 8, 2010

**DRAFT**

INVENTOR(S) : Asius et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1651 days

Delete the phrase "by 1651 days" and insert – by 1784 days--





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LITMAN LAW OFFICES, LTD.  
PATENT LAW BUILDING  
8955 CENTER STREET  
MANASSAS VA 20110

MAILED  
SEP 09 2010  
OFFICE OF PETITIONS

In re Patent No. 6,910,704  
Issue Date: June 28, 2005  
Application No. 10/809,433  
Filed: March 26, 2004  
Attorney Docket No. 24472.00

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed June 4, 2010 and supplemented on June 6, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (1) above.

The petition is not considered to contain a proper statement of unintentional delay since the petition is presently not deemed to have been submitted by a proper party in interest within the meaning of 37 CFR 1.378(d).



If the petition is signed by an assignee or other party in interest, compliance with 37 CFR 3.73(b) must be satisfied. Accordingly, the attached blank Certificate Under 37 CFR 3.73(b) form must be completed to indicate the interest and authority of Stephanie E. Celiceo to sign the instant petition to reinstate the above-identified expired patent.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:                   Mail Stop PETITIONS  
                              Commissioner for Patents  
                              Post Office Box 1450  
                              Alexandria, VA 22313-1450

By hand:                   Customer Service Window  
                              Mail Stop Petitions  
                              Randolph Building  
                              401 Dulany Street  
                              Alexandria, VA 22314

By fax:                    (571) 273-8300  
                              ATTN: Office of Petitions

By internet:               EFS-Web  
                              [www.uspto.gov/ebs/efs\\_help.html](http://www.uspto.gov/ebs/efs_help.html)  
                              (for help using EFS-Web call the  
                              Patent Electronic Business Center  
                              at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/  
Karen Creasy  
Petitions Examiner  
Office of Petitions

Attachment: Blank Certificate Under 37 CFR 3.73(b)

Cc:

**STEPHANIE CELICEO**  
**4733 HEATHBROOK CT.**  
**SAN DIEGO, CA 92154**



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7339557	2008-03-04	10809616	2004-03-25	

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

	Fee	Code
<input checked="" type="radio"/> 3 ½ year		(1551)
<input type="radio"/> 7 ½ year		(1552)
<input type="radio"/> 11 ½ year		(1553)

### Small Entity

	Fee	Code
<input type="radio"/> 3 ½ year		(2551)
<input type="radio"/> 7 ½ year		(2552)
<input type="radio"/> 11 ½ year		(2553)

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Marvin Motsenbocker/	Date (YYYY-MM-DD)	2012-03-23
Name	Marvin A. Motsenbocker	Registration Number	36614
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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In re Patent No. 7339557 :  
Issue Date: March 4, 2008 :  
Application No. 10809616 :DECISION GRANTING PETITION  
Filed: March 25, 2004 :UNDER 37 CFR 1.378(c)  
Attorney Docket No. KYO.P0029 :

This is a decision on the electronic petition, filed March 23, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 23, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.





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**FISH & RICHARDSON P.C. (SD)  
P.O. BOX 1022  
MINNEAPOLIS MN 55440-1022**

**MAILED**

**OCT 26 2010**

**OFFICE OF PETITIONS**

In re Application of  
Anthony G. Macaluso  
Application No. 10/809,922  
Filed: March 24, 2004  
Attorney Docket No. 13817-0006001

:  
:  
: **DECISION ON PETITION  
TO WITHDRAW FROM RECORD**  
:  
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 13, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by John C. Phillips on behalf of all attorneys of record who are associated with Customer Number 20985.

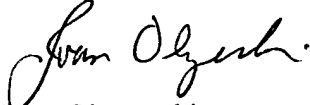
All attorneys/agents associated with the Customer Number 20985 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the applicant at the address indicated below.

Currently, a Board of Patent Appeals and Interferences Docketing Notice was mailed September 1, 2009 in the above-identified application.



Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.



Joan Olszewski  
Petitions Examiner  
Office of Petitions

cc: Anthony G. Macaluso / Single Touch Interactive, Inc.  
2235 Encinitas Boulevard, Suite 210  
Encinitas, CA 92024



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**DATE** : 09/22/11

**TO SPE OF** : ART UNIT 2476

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 10810007 Patent No.: 7710927

**CofC mailroom date:** 09/14/11

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)  
Randolph Square – 9D10-A  
Palm Location 7580**

**Response to 571.210.3/21**

**Note:** \_\_\_\_\_

*Lamonte Newsome*

**Certificates of Correction Branch**

**571-272-3421**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

**Specify below which changes **do not** apply.**

☐ **Denied**

**State the reasons for denial below.**



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Comments:** The submitted changes do not change scope/meaning of claims/application and do not introduce any new matter

---

/Ayaz sheikh/

2476

SPE

Art Unit





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1625 Radio Drive  
Suite 300  
St. Paul, MN 55125

**MAILED**

**FEB 22 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,805,190	: DECISION ON REQUEST
Chapman et al.	: FOR RECONSIDERATION OF
Issue Date: 09/28/2010	: PATENT TERM ADJUSTMENT
Application No. 10/810045	: and
Filing or 371(c) Date: 03/26/2004	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 1074-076/PB10102.00	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 22, 2010, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred eighty-nine (1389) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred eighty-nine (1389) days is **GRANTED to the extent indicated herein**.

Applicants request an additional 252 days of patent term adjustment pursuant to 37 CFR 1.703(b), in the period beginning on the date of the last decision by the Board of Patent Appeals and Interferences, January 19, 2010, to the issue date of the present patent, September 28, 2010.

As to the "B" delay, the period is 145 days. This period begins on the day after the date that is three years after the date on which the application was filed, March 27, 2007, and ends on the issue date of the patent, September 28, 2010, or 1282 days, but not including the number of days beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31, and ending on the date of the last decision by the Board of Patent Appeals and Interferences. See, 35 U.S.C. 154(b)(1)(B)(ii). Thus, the "B" delay period is 145 days (1282 days – 1137 days)<sup>1</sup>.

<sup>1</sup> The petition is granted to the extent that the Office failed to include this 145 days of patent term adjustment.

The Office also notes that where a request for continued examination ("RCE"), has been filed, the period of appeal is only reduced if such appeal period occurred prior to the filing of the RCE. If no RCE has been filed, the period of appeal is reduced if it occurs at anytime during the pendency of application.



A review of Office records also reveals that Applicant failed to note an adjustment of four (4) days pursuant to 37 CFR 1.702(a)(3), in connection the mailing of the Notice of Allowance and Issue Fee Due, four months and four (4) days after the mailing of the Decision by the Board of Patent Appeals and Interferences on January 21, 2010. This four (4) day adjustment overlaps with the period of adjustment pursuant to 37 CFR 1.702(b).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand three hundred twenty-one (1321) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods  
Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

---



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,805,190 B2

DATED : September 28, 2010

INVENTOR(S) : Chapman et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1176 days.

Delete the phrase "by 1176 days" and insert – by 1321 days--





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OCT 27 2010

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**BRIAN R. WOODWORTH**  
**275 N. FIELD DRIVE**  
**DEPT. NLEG BLDG H-1**  
**LAKE FOREST IL 60045-2579**

In re Application of  
Howard L. GREENE. et al  
Application No. 10/810,123  
Filed: March 26, 2004  
Attorney Docket No. 7125USO1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 30, 2009, which set a shortened statutory period for reply of three (3) months. A three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 1, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3746 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/  
Diane C. Goodwyn  
Petitions Examiner  
Office of Petitions





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McHale & Slavin PA  
2855 PGA Blvd  
Palm Beach Gardens FL 33410

**MAILED**  
**AUG 26 2011**  
**OFFICE OF PETITIONS**

In re Patent No. 7,442,776	:	
Young et al.	:	DECISION UPON REMAND AND
Issue Date: October 28, 2008	:	RECONSIDERATION OF
Application No. 10/810,163	:	PATENT TERM ADJUSTMENT
Filed: March 26, 2004	:	AND NOTICE OF INTENT
Attorney Docket No. 2056.029	:	TO ISSUE CERTIFICATE OF
Title: Cancerous Disease	:	CORRECTION
Modifying antibodies	:	

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by eight hundred and forty-one (841) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred and forty-one (841) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/



Patent No. 7,442,776

Application No. 10/810,163

Page 2

Kery A. Fries

Senior Legal Advisor Attorney

Office of Patent Legal Administration

Office of Associate Commissioner

For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,442,776

DATED : October 28, 2008

**DRAFT**

INVENTOR(S) : Ryono et al.

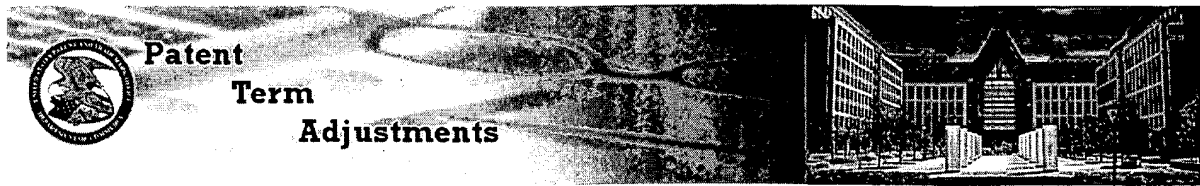
It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 396 days

Delete the phrase “by 396 days” and insert – by 841 days--





PTA/PTE Information    Patent Term Adjustment    Patent Term Extension

Application Number\*: 10810163    Search    Explanation of PTA Calculation    Explanation of PTE Calculation

PTA Calculations for Application: 10810163

Application Filing Date	03/26/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	10/28/2008	Non-Overlapping USPTO Delays	580
A Delays	580	PTO Manual Adjustment	445
B Delays	0	Applicant Delay (APPL)	184
C Delays	0	Total PTA (days)	841

\* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
65	08/22/2011		P028	Adjustment of PTA Calculation by PTO	445	0	
61	10/28/2008		PTAC	Patent Issue Date Used in PTA Calculation		0	
61.5	10/08/2008	03/26/2007	PTA36M	PTA 36 Months	0	0	
60	09/26/2008		EFDC	Export to Final Data Capture		0	
59	09/25/2008		D1935	Dispatch to FDC		0	
58	09/25/2008		PILS	Application Is Considered Ready for Issue		0	
57	09/24/2008		N084	Issue Fee Payment Verified		0	
56	09/24/2008		BIG.	Statement Filed Indicating a Loss of Entitlement to Small Entity Status		0	
55	09/24/2008		IFEE	Issue Fee Payment Received		0	
54	09/03/2008		FIDC	Finished Initial Data Capture		0	
53	08/06/2008		QURF	Workflow - Query Request - Finish		0	
52	08/04/2008		TCPB	Printer Rush- No mailing		0	
50	07/15/2008		QURI	Workflow - Query Request - Begin		0	
51	07/08/2008		PUBTC	Pubs Case Remand to TC		0	
49	06/27/2008		EIDC	Export to Initial Data Capture		0	
48	06/24/2008		MN/=.	Mail Notice of Allowance		0	
47	06/20/2008		IREV	Issue Revision Completed		0	
46	06/20/2008		DVER	Document Verification		0	
45	06/20/2008		N/=.	Notice of Allowance Data Verification Completed		0	
44	06/20/2008		CNTA	Allowability Notice		0	
40	06/18/2008		FWDX	Date Forwarded to Examiner		0	
38	06/18/2008		FWDX	Date Forwarded to Examiner		0	
36	06/18/2008		ABN9	Disposal for a RCE / CPA / R129		0	
37	06/13/2008	03/13/2008	RCEX	Request for Continued Examination (RCE)		92	29
35	06/13/2008		BRCE	Workflow - Request for RCE - Begin		0	
34	06/13/2008		FWDX	Date Forwarded to Examiner		0	
39	06/04/2008		AMPR	RCE- AF Processed		0	
33	06/04/2008		A.NE	Amendment after Final Rejection		0	
32	06/04/2008		XT/G	Request for Extension of Time - Granted		0	
31	06/04/2008		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		0	
30	01/31/2008		DOCK	Case Docketed to Examiner in GAU		0	
29	12/13/2007		MCTFR	Mail Final Rejection (PTOL - 326)		0	
28	12/10/2007		CTFR	Final Rejection		0	
26	10/10/2007		FWDX	Date Forwarded to Examiner		0	
27	10/04/2007		C602	Oath or Declaration Filed (Including Supplemental)		0	
25	10/04/2007	07/04/2007	A...	Response after Non-Final Action		92	23
24	10/04/2007		XT/G	Request for Extension of Time - Granted		0	
23	04/04/2007		MCTNF	Mail Non-Final Rejection		0	
22	03/30/2007		CTNF	Non-Final Rejection		0	
20	02/01/2007		FWDX	Date Forwarded to Examiner		0	
19	01/26/2007		ELC.	Response to Election / Restriction Filed		0	
18	12/27/2006	05/26/2005	MCTRS	Mail Restriction Requirement	580	-1	
17	12/22/2006		CTRS	Restriction/Election Requirement		0	
21	06/30/2005		IDSC	Information Disclosure Statement considered		0	
16.7	06/30/2005		M844	Information Disclosure Statement (IDS) Filed		0	
16	06/30/2005		WIDS	Information Disclosure Statement (IDS) Filed		0	
15	06/30/2005		RCAP	Reference capture on IDS		0	
14	06/18/2004		DOCK	Case Docketed to Examiner in GAU		0	
13	06/18/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete		0	
11	06/07/2004		COMP	Application Is Now Complete		0	
6	06/07/2004		COMP	Application Is Now Complete		0	
12	06/05/2004		WROIPE	Application Return from OIPE		0	
10	06/05/2004		ROIPE	Application Return TO OIPE		0	
9	06/05/2004		WROIPE	Application Return from OIPE		0	
8	06/05/2004		ROIPE	Application Return TO OIPE		0	



7	06/05/2004	OIPE	Application Dispatched from OIPE	0
5	05/01/2004	L128	Cleared by L&R (LARS)	0
4	04/22/2004	L198	Referred to Level 2 (LARS) by OIPE CSR	0
3	04/22/2004	CLSS	CASE CLASSIFIED BY OIPE	0
2	04/05/2004	SCAN	IFW Scan & PACR Auto Security Review	0
1	03/26/2004	IEXX	Initial Exam Team nn	0

Export to: [Excel](#)





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**OFFICE OF PETITIONS**

MAHAMEDI PARADICE KREISMAN LLP (NLMI)  
550 SOUTH WINCHESTER BLVD.  
SUITE 605  
SAN JOSE CA 95128

In re Patent No. 7,685,039	:
Issued: March 23, 2010	: LETTER REGARDING
Application No. 10/810,176	: PATENT TERM ADJUSTMENT
Filed: March 26, 2004	:
Attorney Docket No. NLMI.P126	:

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)" filed on April 16, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 1708 days to 2563 days.

The request for review of the patent term adjustment is **DISMISSED**.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer**, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The patent term adjustment indicated in the patent is properly reflected.

The period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) and 37 CFR 1.702(a)(2) is 1470+17 days. The "B" delay period, the over three year period begins on March 26, 2007 and ends on March 23, 2010, the day the patent was issued. However, two periods of overlap begin on March 26, 2007 to June 4, 2009 and December 12, 2009 to December 29, 2009, thus the period of overlap is 801+17 days, and therefore, considering the 818 days of overlap, the "B" delay is 1093 days. However, Applicants argue that the total applicant delay is 0 days and not 54 days as determined by the Office.

Applicants argue that for the time period, June 29, 2009 to January 29, 2010, applicant caused no delays in the prosecution of this application pursuant to 37 CFR § 1.704. Applicant's arguments have been considered, but not found to be persuasive.

The reduction of 54 days has been considered and found to be warranted. It is undisputed that drawings were filed January 29, 2010, after the mailing of the Notice of Allowance. This was a proper basis for reduction of patent term adjustment pursuant to § 1.704(c)(10).

37 CFR § 1.704(c)(10) provides that:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set



forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

As stated in M.P.E. P. 2732

37 CFR 1.703 specifies the period of adjustment if a patent is entitled to patent term adjustment under 35 U.S.C. 154(b)(1) and 37 CFR 1.702. When a period is indicated (in 37 CFR 1.703 or 1.704) as "beginning" on a particular day, that day is included in the period, in that such day is "day one" of the period and not "day zero." For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length. 35 U.S.C. 154(b)(1)(A) and (B) provide for an adjustment of one day for each day after the end of the period set forth in 35 U.S.C. 154(b)(1)(A)(i), (ii), (iii), (iv), and (B) until the prescribed action is taken, whereas 35 U.S.C. 154(b)(1)(C) provides for an adjustment of one day for each day of the pendency of the proceeding, order, or review prescribed in 35 U.S.C. 154(b)(1)(C)(i) through (iii). Therefore, the end of the period set forth in 37 CFR 1.703(a) and 1.703(b) (which correspond to 35 U.S.C. 154(b)(1)(A) and (B)) is "day zero" (not "day one") as to the period of adjustment, whereas the first day of the proceeding, order, or review set forth in 37 CFR 1.703(c), 1.703(d), and 1.703(e) (which correspond to 35 U.S.C. 154(b)(1)(C)(i) through (iii)) is "day one" of the period of adjustment.

The filing of drawings after the mailing of the Notice of Allowance is clearly stated as a failure to engage.

As such, the total patent term adjustment is one thousand seven hundred eight days (1487 "A delay" days plus 1093 "B delay" days minus 818 overlap days minus 54 Applicant Delay days).

The Office acknowledges the submission of the required fee as set forth in 37 CFR 1.18(e).

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions





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**WEISS & MOY PC**  
**4202 NORTH BROWN AVENUE**  
**SCOTTSDALE AZ 85251**

**MAILED**

**JUL 14 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,132,934  
Issue Date: November 7, 2006  
Application No. 10/810,434  
Filed: March 26, 2004  
Attorney Docket No. 4357P2783

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed April 11, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent. This is also a decision on the petition to expedite embedded in the above petition filed April 11, 2011.

The petitions are **GRANTED**.

This patent expired on November 8, 2010 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Applicant is encouraged to note 37 CFR 1.4(c) regarding filing separate papers with distinct subject matters.



Application No. 10/810,434  
Patent No. 7,132,934

-2-

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/KOC/  
Karen Creasy  
Petitions Examiner  
Office of Petitions

Cc:

**ROBERT D. ALLISON III**  
**5783 HICKAM AVE.**  
**LAS VEGAS NV 89130**





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In re Patent No. 7017527  
Issue Date: March 28, 2006  
Application No. 10810465  
Filed: March 25, 2004  
Attorney Docket No. RP-001-US

:

:DECISION GRANTING PETITION  
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed January 17, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 17, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,017,527	2006-03-28	10/810,465	2004-03-25	

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jay P. Hendrickson/	Date (YYYY-MM-DD)	2012-01-17
Name	Jay P. Hendrickson	Registration Number	37147
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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**TROP, PRUNER & HU, P.C.**  
**1616 S. VOSS ROAD, SUITE 750**  
**HOUSTON TX 77057-2631**

**MAILED**  
**APR 08 2011**  
**OFFICE OF PETITIONS**

In re Patent No. 7,693,126 :  
Issue Date: April 6, 2010 :  
Application No. 10/810,507 : **DECISION ON PETITION**  
Filed: March 26, 2004 :  
Attorney Docket No. BGN.0002US (N5829- :  
US) :

This is a decision on the petition filed January 14, 2011, under 37 CFR 1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

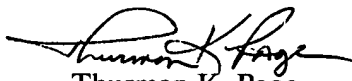
The Publishing Division is directed to issue a duplicate Letters Patent.

The payment of \$400 for the petition fee under 37 CFR 1.182 has been submitted.

Telephone inquiries concerning this decision may be directed to Diane C. Goodwyn at (571) 272-6735.

Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ollie Person at (703) 756-1555 in the Office of Data Management.

A copy of this decision is being sent to the Office of Data Management for issuance of a duplicate Letters Patent.

  
Thurman K. Page  
Petitions Examiner  
Office of Petitions

cc: Ollie Person, Randolph Square, 9<sup>th</sup> Floor, Room D30-A (Fax No. (571) 270-9764)  
Kimberly Terrell, Randolph Square, 9<sup>th</sup> Floor, Room D33 (Fax No. (571) 270-9958)





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**JOHN R. ROSS  
TREX ENTERPRISES CORP  
10455 PACIFIC CENTER CT.  
SAN DIEGO CA 92121**

**MAILED**

**MAR 14 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,131,446  
Issued: November 7, 2006  
Application No. 10/810,778  
Filed: March 25, 2004  
Attorney Docket No. 529

**DECISION ON PETITION**

This is a decision on the petition under 37 CFR 1.378(c), filed January 26, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 8, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Additionally, the file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. Petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski  
Petitions Examiner  
Office of Petitions

cc: John R. Ross  
PO Box 2138  
Del Mar, CA 92014





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SEP 28 2010

*In re* Patent No. HOU, YANMING  
Issue Date: June 26, 2007  
Appl No.: 10/810,878  
Filed: March 26, 2004  
For: POWER TAKE-OFF CONTROL SYSTEM

:  
:  
: **DECISION GRANTING**  
: **PETITION**  
: **37 CFR 1.324**  
:  
:  
:  
:

This is a decision on the petition filed July 18, 2008 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Richard WL Ridley  
Supervisory Patent Examiner  
Art Unit 3656  
Technology Center 3600

BLUE LEAF I.P., INC.  
P.O. BOX 1895  
M.S. 641  
NEW HOLLAND, PA 17557





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Paper No.

THE LAW OFFICE OF  
KIRK D. WILLIAMS  
PO BOX 39425  
DENVER CO 80239-0425

**MAILED**

**SEP 30 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,627,573 : DECISION ON REQUEST  
Williams et al. : FOR  
Issue Date: December 1, 2009 : RECONSIDERATION OF  
Application No. 10/811,044 : PATENT TERM ADJUSTMENT  
Filed: March 27, 2004 : and  
Atty Docket No. 42027 : NOTICE OF INTENT TO ISSUE  
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 28, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by at least nine hundred fifty-seven (957) days. Patentee timely disputes under the provisions of 37 CFR 1.705(d) the reduction of 23 days for applicant delay entered on decision on patent term adjustment mailed May 18, 2010.

The request for reconsideration of petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **nine hundred fifty-five (955) days**.

Patentee's arguments have been considered and found persuasive. The entry of the period of reduction of 23 days, pursuant to 37 CFR 1.704(c)(10), for the filing of a paper on August 5, 2009 is not warranted. This paper is of the type the Director has deemed to not substantially interfere with the patent issuance process, a request to correct an error or omission in the



"Notice of Allowance" or "Notice of Allowability." See MPEP 2732. Accordingly, the period of reduction of 23 days has been removed.

However, a review of the record also revealed that the Office's entry of a period of adjustment of 680 days for B delay is incorrect. The patent issued 3 years and 980 days after the application filing date. The Office incorrectly calculated the period of exclusion for appellate review. The excluded period begins on the date on which a notice of appeal was filed. However, in this case, the Office calculated both periods of exclusion as beginning on the day after the date a notice of appeal was filed, 233 and 67 days respectively, for a total of 300 excluded days. Whereas, the Office should have calculated the periods of exclusion as 234 and 68 days counting the number of days beginning on the date of filing of the notices of appeal on November 19, 2007 and May 18, 2009. As such, the B delay is corrected to 678 (980 - 302) days, not 680 days.

In view thereof, the revised patent term adjustment is nine hundred fifty-five **(955)** days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by nine hundred fifty-five **(955)** days.



Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a stylized, flowing script.

Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,627,573 B2  
DATED : December 1, 2009  
INVENTOR(S) : Williams, Jr. et al.

**DRAFT**

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 824 days

Delete the phrase "by 824 days" and insert – by 955 days--





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**THE BRILL LAW OFFICE  
2900 GORDON AVENUE  
SUITE 100-38  
SANTA CLARA CA 95051**

**MAILED**

**FEB 22 2011**

**OFFICE OF PETITIONS**

In re Application of  
HARTENSTEIN, et al  
Application No. 10/811,327  
Filed: March 25, 2004  
Attorney Docket No. HART0001

**DECISION ON PETITION  
TO WITHDRAW  
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 3, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Jeffrey Brill on behalf of the attorneys of record associated with Customer No. 90407.

The attorneys of record associated with Customer No. 90407 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below, until otherwise properly notified by the applicant.



Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/  
Diane C. Goodwyn  
Petitions Examiner  
Office of Petitions

cc: MARK J. HARTENSTEIN  
601 BEACON STREET  
BOISE, IDAHO 83706





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United States Patent and Trademark Office  
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/811,327	03/25/2004	Mark A. Hartenstein	HART0001

**CONFIRMATION NO. 1373**

## POWER OF ATTORNEY NOTICE



CC000000046067170

90407  
The Brill Law Office  
2900 Gordon Avenue  
Suite 100-38  
Santa Clara, CA 95051

Date Mailed: 02/17/2011

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/03/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101





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DOUGLAS R. SCHNABEL  
304 INDIAN TRACE, #750  
WESTON, FL 33326

**MAILED**

**MAR 31 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,244,890 :  
Issue Date: July 17, 2007 :  
Application No. 10/811,371 :  
Filed: March 26, 2004 :  
Attorney Docket No. INT-03-009 :

**ON PETITION**

This is a decision on the petition filed November 29, 2010, which is being treated as a request under 37 CFR 3.81(b)<sup>1</sup> to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-0602. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Thurman K. Page  
Petitions Examiner  
Office of Petitions

cc: DOUGLAS R. SCHNABEL  
316 HART STREET  
ESSEXVILLE, MI 48732

<sup>1</sup> See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.





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**MAILED**

**APR 09 2012**

**OFFICE OF PETITIONS**

WALKER DIGITAL MANAGEMENT, LLC  
2 HIGH RIDGE PARK  
STAMFORD CT 06905

In re Patent No.	:	
7,364,510	:	
Application No. 10/811,583	:	DECISION GRANTING PETITION
Filing Date: March 29, 2004	:	
Issue Date: April 29, 2008	:	
Attorney Docket No. 03-068	:	

This is a decision on the petition under 37 CFR 1.182, filed March 9, 2012, requesting withdrawal of a terminal disclaimer filed in the above-cited application and replacement with a corrected terminal disclaimer.

The petition is **granted**.

A review of the application file history reveals that a terminal disclaimer was filed on September 7, 2006, in the above-cited application wherein applicants disclaimed the terminal part of any patent granted on this application which would extend beyond the expiration date of United States Patent Nos. 6,172,872 and 6,206,782. The terminal disclaimer was accepted and made of record. Patentees now file the instant petition requesting that the terminal disclaimer filed September 7, 2006, be withdrawn because of a typographical error in one of the patent numbers being disclaimed. The terminal disclaimer cited patent number 6,172,872 when it should have cited 6,142,872. Patentees request that the incorrect terminal disclaimer be withdrawn and that the corrected terminal disclaimer, filed herewith, be made of record.

It is noted that Section 1490(VII) (B) of the Manual of Patent Examining Procedure (MPEP) states, in pertinent part, that:

The mechanisms to correct a patent — Certificate of Correction (35 U.S.C. 255), reissue (35 U.S.C. 251), and reexamination (35 U.S.C. 305) — are not available to withdraw or otherwise nullify the effect of a recorded terminal disclaimer. As a general principle, public policy does not favor the restoration to the patent owner of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner — e.g., intervening rights in the case of a reissue patent. See, e.g., *Altoona Publix Theatres v. American Tri-Ergon Corp.*, 294 U.S. 477, 24 USPQ 308 (1935).

...

Where a terminal disclaimer was submitted to overcome a nonstatutory double patenting rejection (made during prosecution of an application which has now issued as a



patent), and the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed (e.g., 6,444,316 written as 6,444,136), a petition under 37 CFR 1.182 may be filed to withdraw the terminal disclaimer with the incorrect (transposed) patent number (recorded in the issued patent), and replace it with a corrected terminal disclaimer having the correct patent number. In this instance, the inadvertency is clear from the record. If the transposing error resulted in an earlier patent term expiration date than provided by the corrected terminal disclaimer, a statement must be included in the corrected terminal disclaimer to retain that earlier expiration date. The absence of such a statement will result in the Office declining to exercise its discretion to grant relief.

Based on the above-cited section of the MPEP, it is appropriate to grant the instant petition because : 1) the incorrect terminal disclaimer was submitted to overcome a nonstatutory double patenting rejection; 2) the numbers for the patent being disclaimed in the terminal disclaimer were inadvertently transposed; 3) the corrected terminal disclaimer was filed with the instant petition, and 4) the corrected terminal disclaimer contained a statement retaining any earlier expiration date. The petition is granted, accordingly.

The file is being directed to Technology Center 3700, GAU 3714 where the corrected terminal disclaimer filed February 9, 2009, will be made of record.

Questions regarding this decision may be directed to the undersigned at (571)272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions





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**FROST BROWN TODD LLC  
2200 PNC CENTER  
201 E. FIFTH STREET  
CINCINNATI OH 45202-4182**

**MAILED  
JAN 31 2011  
OFFICE OF PETITIONS**

In re Application of :  
RIVIR, et al :  
Application No. 10/811,788 : **DECISION ON PETITION**  
Filed: March 16, 2004 :  
Docket No. 031004 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 27, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 28, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$810; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 1751 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/  
Diane C. Goodwyn  
Petitions Examiner  
Office of Petitions



20 AUG 2010



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WILMERHALE/BOSTON  
60 STATE STREET  
BOSTON MA 02109

In re Application of	:
Theoharides	: DECISION ON PETITION
Application No. 10/811,826	: UNDER 37 CFR 1.78(a)(3)
Filed: 30 March 2004	:
Attorney Docket No. 2003133.126US1	:
For: Anti-Inflammatory Compositions	:
For Multiple Sclerosis	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed on 07 April 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications set forth in the concurrently filed Application Data Sheet.

The petition is **DISMISSED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional and PCT applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).



37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See MPEP Section 201.11, Rev. 2, May 2004, Reference to Prior Application.

Furthermore, MPEP 201.11, Section III. C., states in relevant part,

Sometimes a pending application is one of a series of applications wherein the pending application is not copending with the first filed application but is copending with an intermediate application entitled to the benefit of the filing date of the first application. . . . Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A. (Emphasis added.)

The Application Data Sheet filed on 07 April 2010 indicates application 09/771,669 to be a continuation-in-part of 09/056,707, but review of 09/771,669 does not reveal that status to exist. The amendment filed in 09/771,669 on 09 June 2004 did not make a proper reference because the stated relationship of "continuation-in-part/divisional application" is ambiguous. It is not clear how a particular application could be both a CIP and a Divisional of the same parent application. Since intermediate application 09/771,669 did not contain a proper reference to 09/056,707, it would not be appropriate to accept applicant's claim for priority at this time.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and an a substitute amendment (complying with 37 CFR 1.121) or ADS stating a valid relationship of the prior-filed applications to the instant application is required. Alternatively, petitioner may wish to petition to correct the status of 09/771,669.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal



Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/  
George Dombroske  
PCT Legal Examiner  
Office of PCT Legal Administration  
(571) 272-3283

/Bryan Lin/  
Bryan Lin  
PCT Legal Examiner  
Office of PCT Legal Administration





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LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK  
600 SOUTH AVENUE WEST  
WESTFIELD NJ 07090

**MAILED**

**JAN 17 2012**

**OFFICE OF PETITIONS**

In re Application of	:	
Inoue	:	
Application No. 10/812,177	:	DECISION
Filed/Deposited: 29 March, 2004	:	
Attorney Docket No. SCEI 3.0-170	:	

This is a decision on the petition filed on 8 September, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegation of  
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper showing/statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

*Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(b).*

**BACKGROUND**

A review of the record reveals that:

Petitioner failed to reply timely and properly to the decision of the Board of Patent Appeals and Interferences (BPAI) mailed on 16 May, 2011, with reply due absent extension of time on or before 16 July, 2011.



Application No. 10/812,177

The application went abandoned by operation of law after midnight 16 July, 2011.

The Office mailed the Notice of Abandonment on 30 August, 2011.

On 8 September, 2011, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment, and made the statement of unintentional delay.

*Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).*

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.<sup>1</sup>

## STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.<sup>2,3</sup>

<sup>1</sup> See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

<sup>2</sup> See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

<sup>3</sup> The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a). And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))



Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of “unavoidable” delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word ‘unavoidable’ . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.<sup>4</sup>

#### As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

#### CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2128 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is

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<sup>4</sup> In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm’r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff’d, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm’r Pat. 139, 141 (1913). In addition, decisions on revival are made on a “case-by-case basis, taking all the facts and circumstances into account.” Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was “unavoidable.” Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).



Application No. 10/812,177

noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2<sup>5</sup>) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).



/John J. Gillon, Jr./  
John J. Gillon, Jr.  
Senior Attorney  
Office of Petitions

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<sup>5</sup> The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.



UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE  
BOARD OF PATENT APPEALS AND INTERFERENCES

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*Ex parte* IFTIKHAR KHAN AND NAZIR KHAN

---

Appeal 2010-003194  
Application 10/812,380  
Technology Center 3700

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DECISION ON SECOND REQUEST FOR REHEARING

This is a decision on the Second Request for Rehearing, filed January 14, 2011.

FINDINGS

1. The Board of Patent Appeals and Interferences (“Board”) entered a decision on August 24, 2010, reversing the Examiner’s rejections of claims 1-16 and 18-20, and affirming the Examiner’s rejection of claim 17.
2. On October 23, 2010, the Appellants filed a Request for Rehearing.
3. On November 18, 2010, the Board entered a Decision on Request for Rehearing. The Decision on Request for Rehearing denied Appellants’ request. The Decision also included as footnote 1 the following:

The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover



letter attached to this decision.

4. With respect to requests for rehearing, 37 C.F.R. § 41.52(a) specifies:  
No request for rehearing from a decision on rehearing will be permitted, unless the rehearing decision so modified the original decision as to become, in effect, a new decision, and the Board states that a second request for rehearing would be permitted.
5. The Decision on Request for Rehearing did not state that a **second** request for rehearing would be permitted.
6. On January 14, 2011, the Appellants filed a second Request for Rehearing.

#### DISCUSSION

Appellants' Request for Rehearing did not mention the fact that a first Request for Rehearing was filed and decided. As noted above in Finding 4, no request for rehearing will be permitted, unless the rehearing decision so modified the original decision as to become a new decision. The Decision on Rehearing did not authorize Appellants to file a second Request for Rehearing.

Furthermore, Footnote 1 in the Decision on Request for Rehearing, as quoted above, clearly was intended to advise Appellant of the time period for filing an appeal or commencing a civil action or, if a substantive right to file a second request for rehearing had been granted in the Decision on Request for Rehearing, to file a second request for rehearing. This is a standard language footnote that recently was adopted by the Board for inclusion in all Board decisions to advise appellants of the time period for seeking further review, and is included in all Board decisions on appeal and decisions on request for rehearing.

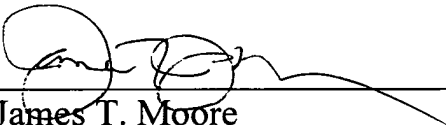


Appeal 2010-003194  
Application 10/812,380

As noted above, in the Decision on Request for Rehearing, the Board did not expressly state that a second request for rehearing would be permitted.

#### DECISION

In view of the foregoing, the Second Request for Rehearing is DENIED as procedurally barred by Rule 41.52(a). Appellant is granted two months from the date hereof to file an appeal or commence a civil action as provided in Rule 1.304.



James T. Moore  
Acting Chief Administrative Patent Judge

NAZIR A. KHA N  
150 GLENMORA DRIVE  
BURR RIDGE, IL 60527





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United States Patent and Trademark Office  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,476	03/29/2004	Douglas C. Harrington	17.003001 CON 2	3267
7590 10/26/2010 CYTYC CORPORATION Darry Pattinson, Sr. IP Paralegal 250 CAMPUS DRIVE MARLBOROUGH, MA 01752			EXAMINER ROANE, AARON F	
			ART UNIT	PAPER NUMBER
			3769	
			MAIL DATE	DELIVERY MODE
			10/26/2010	PAPER

## ACKNOWLEDGEMENT OF REQUEST

*Notice of Allowance/Allowability Mailed*

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101  
Application Assistance Unit  
Office of Data Management





UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
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www.uspto.gov

October 26, 2010

CYTYC CORPORATION  
Darry Pattinson, Sr. IP Paralegal  
250 CAMPUS DRIVE  
MARLBOROUGH MA 01752

In re Application of	:	
Douglas C. Harrington, et al	:	<b>DECISION ON PETITION</b>
Application No. 10812476	:	
Filed: 03/29/2004	:	<b>ACCEPTANCE OF COLOR</b>
Attorney Docket No. 17.003001 CON 2	:	<b>DRAWINGS</b>

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R. 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) March 29, 2004.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

*"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."*

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is **GRANTED**.

Telephone inquiries relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Kimberly Terrell/  
Manager  
Office of Data Management  
Publications Branch





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**STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.**  
**1100 NEW YORK AVENUE, N.W.**  
**WASHINGTON DC 20005**

**MAILED**

**JUN 20 2011**

**OFFICE OF PETITIONS**

Patent No. 7,331,787	:	
Issue Date: February 19, 2008	:	
Application No. 10/812,638	:	ON PETITION
Filed: March 29, 2004	:	
Attorney Docket No. 25669-014 CIP CON	:	

This is a decision on the petition filed April 10, 2008, which will be treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

A petition under 37 CFR 3.81 requires a fee of \$130. As such, this fee will be charged to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the Kimberly Inabinet at (571) 272-4618. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (703) 756-1814.

/Carl Friedman/  
Carl Friedman  
Petitions Examiner  
Office of Petitions





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STEVEN HOROWITZ, ESQ.  
295 MADISON AVE  
SUITE 700  
NEW YORK NY 10017

**MAILED**

**MAR 25 2011**

**OFFICE OF PETITIONS**

In re Application of  
Jeffrey Hutterer  
Application No. 10/812,809  
Filed: March 30, 2004  
Title of Invention: METHOD AND  
COMPOSITION FOR TREATMENT OF SKIN  
CONDITIONS

**ON PETITION**

This is a decision on the petition filed February 14, 2011 under 37 CFR 1.137(b),<sup>1</sup> to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed August 14, 2009. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested prior to the abandonment of the application, this application became abandoned November 17, 2009. Accordingly, the Notice of Abandonment was mailed March 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuation application under 37 CFR 1.53(b); (2) the petition fee of \$810; and (3) an adequate statement of unintentional delay.

---

<sup>1</sup>Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).



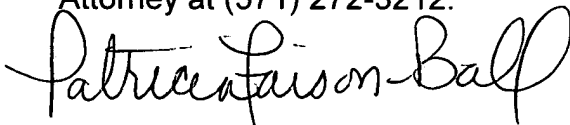
Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of continuation application no.13/027,242 filed February 14, 2011, pursuant to the provisions of 37 CFR 1.53(b).

The petition fee in the amount of \$810 has been applied.

Additionally, however, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This matter is being referred to Technology Center 1627 for processing of the continuation application filed February 14, 2011.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions

cc:

MARK M. FRIEDMAN  
DR. MARK FRIEDMAN LTD.  
MOSHE AVIV TOWER, 54TH FLOOR  
7 JABOTINSKY STREET  
RAMAT GAN 52520 ISRAEL





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[www.uspto.gov](http://www.uspto.gov)

Dykema Gossett, PLLC  
Suite 300 West  
1300 I Street, N.W.  
Washington DC 20005-3306

**MAILED**

**DEC 29 2010**

**OFFICE OF PETITIONS**

In re Application of	:	
Patrick Hallinan et al	:	DECISION GRANTING STATUS
Application No. 10/813,078	:	UNDER 37 CFR 1.47(a)
Filed: March 31, 2004	:	
Attorney Docket No. 066949-0001	:	

This is a decision on the renewed petition filed, December 7, 2010 , requesting reconsideration of a decision mailed July 7, 2010, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is **GRANTED**.

Petitioner has shown that the non-signing co-inventor, James Schreck, has refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Data Management.

Telephone inquiries regarding this decision should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman  
Petitions Examiner  
Office of Petitions





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James Schreck  
53 Oak Street  
Centereach, New York 11720-3840

**MAILED**

DEC 29 2010

**OFFICE OF PETITIONS**

In re Application of  
Patrick Hallinan et al.  
Application No. 10/813,078  
Filed: March 31, 2004

For: MOWER TRIMMER COMBINATION FOR FACILITATING SIMULTANEOUS MOWING AND EDGE TRIMMING IN A SINGLE PASS

Dear Mr. Schreck:

You are named as a co-inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a co-inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Carl Friedman at (571) 272-6842. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Carl Friedman  
Petitions Examiner  
Office of Petitions

cc: Dykema Gossett, PLLC  
Suite 300 West  
1300 I Street, N.W.  
Washington DC 20005-3306





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DAVIS WRIGHT TREMAINE, LLP/SEATTLE  
1201 THIRD AVENUE, SUITE 2200  
SEATTLE, WA 98101-3045

**MAILED**

OCT 20 2010

In re Application of	:	
Ying Yu Kuo, et al.	:	<b>OFFICE OF PETITIONS</b>
Application No.: 10/813,096	:	
Filed: March 31, 2004	:	DECISION ON PETITION
Attorney Docket No.: 88910-32US0	:	UNDER 37 CFR 1.55(c)
	:	

This is a decision on the petition under 37 CFR 1.55(c), filed August 26, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Taiwan Patent Application No. 092120321, filed July 25, 2003. The \$1,410 petition fee is being charged to counsel's deposit account, as authorized.

The petition is **GRANTED**.

This pending nonprovisional application was filed on March 31, 2004, and while the Declaration did cite a reference to a foreign application, the priority was not claimed. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

- (1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
- (2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6));
- (3) the surcharge as set forth in 37 CFR 1.17(t);
- (4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and



- (5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

*The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.*

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

This application is being referred to Technology Center AU 2629 for continued examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3204.



Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions

ATTACHMENT: Corrected Filing Receipt





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UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
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www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
10/813,096	03/31/2004	2629	770	88910-32US0	17	3

**CONFIRMATION NO. 5658**

**CORRECTED FILING RECEIPT**



OC000000043915764

22504  
DAVIS WRIGHT TREMAINE, LLP/Seattle  
1201 Third Avenue, Suite 2200  
SEATTLE, WA 98101-3045

Date Mailed: 10/08/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

**Applicant(s)**

Ying Yu Kuo, Taipei, TAIWAN;  
Adrianus Van Der Vorst, Taipei, TAIWAN;

**Power of Attorney:** The patent practitioners associated with Customer Number 22504

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

TAIWAN 092120321 07/25/2003

**If Required, Foreign Filing License Granted:** 06/12/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/813,096**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No



**Title**

Method for constituting identification code utilized in a wireless human input device and wireless human input system thereof

**Preliminary Class**

345

**PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES**

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

**LICENSE FOR FOREIGN FILING UNDER****Title 35, United States Code, Section 184****Title 37, Code of Federal Regulations, 5.11 & 5.15****GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where



the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

#### **NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).





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AUG 16 2010

OFFICE OF PETITIONS

HARRITY & HARRITY, LLP  
11350 RANDOM HILLS RD.  
FAIRFAX, VA 22030

In re Patent No. 7,660,822 : DECISION ON  
Karl Pfleger : REQUEST FOR  
Issue Date: February 9, 2010 : RECONSIDERATION OF  
Application No. 10/813,229 : PATENT TERM ADJUSTMENT  
Filed: March 31, 2004 : and  
Atty Docket No. 0026-0073 : NOTICE OF INTENT TO ISSUE  
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 7, 2010 which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand seventy (1070) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **one thousand sixty-nine (1069)** days.

The period of patent term adjustment is the sum of the period of delay under 35 U.S.C. §154(b)(1)(A) ("A Delay") and the period of delay under 35 U.S.C. §154(b)(1)(B) ("B Delay") reduced by the number of days of overlap between A Delay and B Delay and reduced by the period of delay under 35 U.S.C. §154(b)(2)(C) ("Applicant Delay").

The period of A Delay (478 days) is not in dispute.



The petition asserts the period of B Delay is 772 days; however, the period of B Delay begins on April 1, 2007 and ends the day before the filing of the RCE, which is May 10, 2009. Therefore, the correct B Delay is 771 days (not 772).

The petition asserts Applicant Delay is 180 days, rather than 262 days, as calculated by the Office. Applicant impliedly disputes a reduction of 82 days in connection with a "miscellaneous incoming letter." A review of the document at issue reveals that it is a power of attorney/change of correspondence address. The submission of certain papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application. A Power of Attorney is **not** grounds for a 37 CFR 1.704(c)(10) reduction. See *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). Therefore, the correct amount of Applicant Delay is 180 days. The reduction of 82 days is being removed from the patent term adjustment record.

With respect to the period of adjustment for the Office taking in excess of three years to issue the patent, 35 U.S.C. §154(b)(2)(A) limits Office delay to the sum of A Delay and B Delay to the extent such periods of delay are not overlapping. Since none of the A Delay overlaps with any of the B Delay, there is no overlapping period.

The proper patent term adjustment is **1069 days** which is the sum of 478 days of A Delay and 771 days of B delay reduced by 180 days of Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.


Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.



The \$200.00 fee set forth in 37 CFR 1.18(e) will be charged to patentee's deposit account.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand sixty-nine (1069)** days.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

  
Shirene W. Brantley  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,660,822 B1

DATED : February 9, 2010

DRAFT

INVENTOR(S) : Pflieger

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 510 days

Delete the phrase "by 510 days" and insert – by 1069 days--





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Paper No.

MINTZ, LEVIN, COHN, FERRIS,  
GLOVSKY AND POPEO, P.C  
ONE FINANCIAL CENTER  
BOSTON MA 02111

**MAILED**

**JUL 28 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,650,149 : DECISION ON REQUEST  
Tammi et al. : FOR  
Issue Date: January 19, 2010 : RECONSIDERATION OF  
Application No. 10/813,277 : PATENT TERM ADJUSTMENT  
Filed: March 31, 2004 : and  
Atty Docket No. 39700-616001US: NOTICE OF INTENT TO ISSUE  
/NC40087US : CERTIFICATE OF CORRECTION

This is in response to the RESPONSE TO DECISION ON REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION timely filed on August 26, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred twenty-seven (927) days. This response was recently forwarded to the undersigned for consideration.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred twenty-seven (927) days is **GRANTED**.

By decision mailed July 26, 2010, the initial REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH was granted to the extent that the patent term adjustment was determined to be 966 days. In response, patentee timely filed this response, requesting that the patent term adjustment be corrected to 927 days.

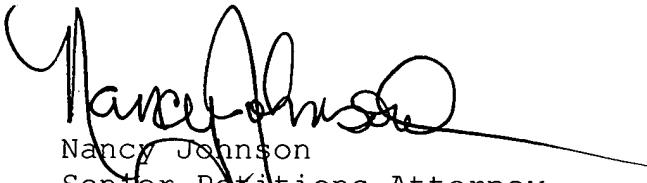


Patentee's arguments have been considered and found persuasive. For the reasons stated by patentee, entry of two additional periods of reduction of 10 and 29 days is warranted.

In view thereof, the correct patent term adjustment is 927 days.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred twenty-seven (927)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,650,149

DATED : January 19, 2010

DRAFT

INVENTOR(S) : Tammi et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 713 days

Delete the phrase "by 713 days" and insert – by 927 days--





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P.O. BOX 832570  
RICHARDSON, TX 75083

**MAILED**  
**MAR 02 2012**  
**OFFICE OF PETITIONS**

In re Application of	:	
Simon Knowles	:	
Application No.: 10/813,433	:	ON PETITION
Filed: March 31, 2004	:	
Attorney Docket No.: 321546US	:	

This is a decision on the petition, filed February 15, 2012, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

*Petitioner is advised that the issue fee paid on February 3, 2012, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.<sup>1</sup>*

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2183 for further processing of the request for continued examination and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions

<sup>1</sup> The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.





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JOHN F. SALAZAR  
MIDDLETON & REUTLINGER  
2500 BROWN & WILLIAMSON TOWER  
LOUISVILLE KY 40202

**MAILED**

**SEP 20 2010**

**OFFICE OF PETITIONS**

In re Application of	:	
Lamsfuss	:	
Application No. 10/813,452	:	
Filed: March 30, 2004	:	ON APPLICATION FOR
Attorney Docket No. ZM337/03002	:	PATENT TERM ADJUSTMENT
Title: AUTOMATIC LEVELING	:	
FIXTURE	:	
	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b) AND 35 U.S.C. § 154" filed July 30, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is two hundred twenty-four (224) days, not ninety (90) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the



computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee<sup>1</sup>.

---

<sup>1</sup> For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

A handwritten signature in black ink, appearing to read 'Anthony Knight', is written over the printed name.

Anthony Knight  
Director  
Office of Petitions.





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**NOV 19 2010**

**OFFICE OF PETITIONS**

NEC LABORATORIES AMERICA INC  
4 INDEPENDENCE WAY  
PRINCETON NJ 08540

In re Application of :  
Dubnicki, et al. :  
Application No. 10/813,484 : ON PETITION  
Filed: March 30, 2004 :  
Attorney Docket No. 02022-B :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed September 10, 2010.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed May 11, 2010. This Notice set a statutory period for reply of three months. Applicants filed an issue fee transmittal form on May 18, 2010. However, counsel's deposit account lack sufficient funds to charge the issue fee. No issue fee having been received, the application became abandoned on August 12, 2010. The Office mailed a Notice of Abandonment on August 25, 2010.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of the issue fee.



The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo  
Petitions Attorney  
Office of Petitions





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**AUG 17 2011**  
**OFFICE OF PETITIONS**

MCANDREWS HELD & MALLOY, LTD  
500 WEST MADISON STREET  
SUITE 3400  
CHICAGO IL 60661

In re Patent No. 7,933,555 : DECISION ON REQUEST FOR  
SHERVIN MOLOUDI : RECONSIDERATION OF  
Issue Date: 04/26/2011 : PATENT TERM ADJUSTMENT AND  
Application No. 10/813486 : NOTICE OF INTENT TO ISSUE  
Filed: 03/30/2004 : CERTIFICATE OF CORRECTION  
Atty. Docket No. 15420US01 :

This is a decision on the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(B) INDICATED IN THE PATENT (37 CFR § 1.705(d))", filed June 20, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand ten (1010) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **one thousand eight (1008) days**.

Patentees dispute the determination of 352 days of "B delay" and assert that the period should be 353 days. Specifically, patentees argue that the calculation of the period consumed by continue examination pursuant to 37 CFR 1.703(b)(1) "is inconsistent with the statute and other USPTO calculations based on events that interrupt the accumulation of patent term adjustments." *Petition*, p. 4. Patentees maintain that "the USPTO policy for calculation of the effect of filing an RCE on



accrual of the three-year guarantee is in error, and provides a PTA one day shorter than it should be." *Id.* at 7.

Patentees' arguments have been considered, but not found persuasive. The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B), which provides that:

(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b) [.]

The implementing regulation, 37 CFR 1.702(b) provides that:

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b) [.]

The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 352 days based on the application having been filed under 35 U.S.C. 111(a) on March 30, 2004, and the patent not having issued as of the day after the three year date, March 31, 2007, and a request for continued examination under 35 U.S.C. 132(b) having been filed on March 17, 2008. The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued



examination of the application at the request of the applicant under 35 U.S.C. 132(b). Thus, with respect to calculating the "B delay", where applicant has filed a request for continued examination the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and 37 CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent. Accordingly, the period of "B delay" will remain 352 days.

Next, patentees dispute the reduction of 43 days associated with the filing of the 312 Amendment on March 15, 2011, after the mailing of the Notice of Allowance pursuant to 37 CFR 1.704(c)(10). Specifically, patentees assert that the Examiner acted on the 312 Amendment and mailed a responsive communication on March 23, 2011. Patentees contend that the correct period of reduction for applicant delay is 8 days, the difference between the filing date of the 312 Amendment, March 15, 2011, and the mailing date of the communication in response to the amendment, March 23, 2011, respectively. Patentees argue that the calculation of the period of reduction pursuant to 37 CFR 1.704(c)(10) "is inconsistent with the statute and other USPTO calculations based on events that reduce an accrued patent term adjustment." *Petition*, p. 10. Patentees further assert that "the USPTO policy for calculation of the effect of filing a



post-allowance paper on accrual of the three-year guarantee is in error, and provides an applicant delay one day longer than it should be, thus a PTA one day shorter than it should be." *Id.* at 12.

After reviewing the application history, the Office concurs that the period of reduction of 43 days for the filing of the 312 Amendment on March 15, 2011, after the mailing of the Notice of Allowance is incorrect because the examiner mailed a responsive communication on March 23, 2011. However, the Office disagrees with patentees' calculation of 8 days of applicant delay pursuant to 37 CFR 1.704(c)(10).

Patentees' attention is directed to 35 U.S.C. § 154(b)(2)(C), REDUCTION OF PERIOD OF ADJUSTMENT, which states: "The Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application." Pursuant to 35 U.S.C. § 154(b)(2)(C)(iii), the Director prescribed 37 CFR 1.704(c)(10), which states:

(c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or

(ii) Four months[.]

In this instance, and pursuant to 35 U.S.C. § 154(b)(2)(C)(iii), and 37 CFR 1.704(c)(10), the patent term should have been reduced by 9 days beginning on March 15, 2011, the date that the 312 Amendment was filed, and ending on March 23, 2011, the



mailing date of the communication in response to the Amendment. Thus, the period of reduction of 43 days will be removed and a period of reduction of 9 days will be entered.

Accordingly, the patent term adjustment is 1008 days (785 days of A delay + 352 days of B delay - 94 days of overlap - 35 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given one (1) month or thirty (30) days, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges the payment of the \$200.00 fee set forth in 37 CFR 1.18(e) as authorized. No additional fees are required.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand eight (1008) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

*C. E. Donnell*

Christina Tartera Donnell  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



**DRAFT COPY**

UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,933,555 B2

DATED : Apr. 26, 2011

INVENTOR(S) : Moloudi

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (974) days.

Delete the phrase “by 974 days” and insert – by 1008 days--





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INTELLECTUAL PROPERTY DEPARTMENT  
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ISELIN NJ 08830

MAILED  
FEB 21 2012  
OFFICE OF PETITIONS

In re Application of :  
Stein, et al. :  
Application No. 10/813,587 : ON PETITION  
Filed: March 31, 2004 :  
Attorney Docket No. 2006P26235 US :

This is a decision on the petition under 37 CFR 1.137(b), filed January 11, 2011, to revive the above-identified application.

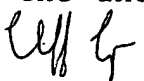
The petition under 37 CFR 1.137(b) is **GRANTED**.

The above application became abandoned for failure to timely file a response within two months to the Examiner's new grounds of rejection set forth in the Answer mailed on January 9, 2009. The Board mailed a decision dismissing the Appeal on December 12, 2011. The Office mailed a Notice of Abandonment on December 19, 2011.

With the instant petition, petitioner made the proper statement of unintentional delay and submitted the required reply in the form of a response to the new grounds of rejection under 37 CFR 41.39(b)(1) and 1.111.

The application is being forwarded to Group Art Unit 1773 for consideration of the "Response to New Grounds of Rejection", filed January 11, 2012.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

  
Cliff Congo  
Petitions Attorney  
Office of Petitions



Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	<b>PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)</b>	
Application Number	10813628	
Filing Date	31-Mar-2004	
First Named Inventor	Simon Knowles	
Art Unit	2181	
Examiner Name	RICHARD FRANKLIN	
Attorney Docket Number	ICER-321538	
Title	METHOD AND APPARATUS FOR SEPARATE CONTROL PROCESSING AND DATA PATH PROCESSING IN A DUAL PATH PROCESSOR WITH A SHARED LOAD/STORE UNIT	
<p>An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.</p> <p>APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).</p> <p>A grantable petition requires the following items:</p> <p>(1) Petition fee; and</p> <p>(2) One of the following reasons:</p> <p>(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;</p> <p>(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or</p> <p>(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).</p>		
<p>Petition Fee</p> <p><input checked="" type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY</p>		
Reason for withdrawal from issue		



- ☐ One or more claims are unpatentable
- ☒ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)
- ☐ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request, submission, and fee.

- ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that:
- ☐ The RCE request, submission, and fee have already been filed in the above-identified application on
- ☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ☐ A joint inventor; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Steven J. Hanke/
Name	Steven J. Hanke
Registration Number	58076





## UNITED STATES PATENT AND TRADEMARK OFFICE

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[www.uspto.gov](http://www.uspto.gov)

Decision Date : March 31, 2011

In re Application of :

Simon Knowles

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10813628

Filed : 31-Mar-2004

Attorney Docket No : ICER-321538

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed March 31, 2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

**Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2181 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions





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BARNES & THORNBURG LLP  
P.O. Box 2786  
CHICAGO IL 60690-2786

**MAILED**

**AUG 18 2011**

**OFFICE OF PETITIONS**

In re Application of

Bernstein

Application No. 10/813,760

Filed: March 31, 2004

Attorney Docket No. 41959-102739

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed August 5, 2011.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is granted.

This application was held abandoned on August 1, 2011, after it was believed that no further action was taken after a "Decision on Appeal" mailed May 31, 2011, affirming the examiner. A Notice of Abandonment was mailed on August 4, 2011, indicating that the period for seeking court review of the decision had expired and there are no allowed claims.

The instant petition was filed on August 5, 2011, wherein petitioner states that the imposition of the holding of abandonment is improper because a Request for Rehearing under 37 CFR 41.52 was timely filed on August 1, 2011.

A review of the application file record did reveal that "Request for Rehearing under 37 CFR 41.52" was filed August 1, 2011, within the two month period set forth in 37 CFR 41.52. It is noted that two month period ended Sunday July 31, 2011. The Request for Rehearing filed Monday, August 1, 2011, was timely pursuant to 37 CFR 1.7(b). Based on the aforementioned, it appears that the application was improperly held abandoned as a "Request for Rehearing under 37 CFR 41.52" was filed August 1, 2011, within the two month period set forth in 37 CFR 41.52. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 1600, GAU 1613, for further processing.



Further inquiries regarding this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions





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BRINKS HOFER GILSON & LIONE/CHICAGO/COOK  
PO BOX 10395  
CHICAGO IL 60610

**MAILED**

**MAY 19 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,892,254  
Issue Date: February 22, 2011  
Application No. 10/813,783  
Filed: March 30, 2004  
Attorney Docket No. 8627-1901

: DECISION ON REQUEST  
: FOR RECONSIDERATION OF  
: PATENT TERM ADJUSTMENT  
: AND  
: NOTICE OF INTENT TO ISSUE  
: CERTIFICATE OF CORRECTION

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed March 9, 2011. Patentees request that the patent term adjustment indicated on the patent be increased by one hundred twenty (120) days.

The request for reconsideration of patent term adjustment is **GRANTED to the extent indicated herein.**

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of four hundred seven (407) days.

Patentees dispute the period of reduction of 120 days entered for the August 27, 2010 filing of a letter that Patentees submitted pursuant to their duty of good faith and candor regarding an error in patent term adjustment.

Patentees are correct. A review of the record confirms that a period of reduction of 120 days was entered for the filing of a candor letter on August 27, 2010.

§ 1.704(e) provides that:

Submission of an application for patent term adjustment under § 1.705(b) (with or without request under § 1.705(c) for reinstatement of reduced patent term adjustment) will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraph (c)(10) of this section.

Likewise, filing of a letter pursuant to comment 43 is covered by 37 CFR 1.704(e). Therefore, the Patent Term Adjustment was incorrectly reduced. Consequently 120 days will be properly restored to patentees patent term adjustment.

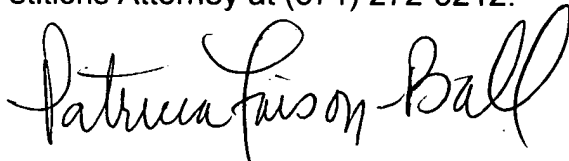


In view thereof, the patent should have issued with a revised patent term adjustment of four hundred seven (407) days.

As the August 27, 2010 letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office did not assess the \$200.00 fee under 37 CFR 1.18(e). Likewise, no fee is required if filed solely to remove the period of reduction entered due to the filing of the candor letter.

The Certificate of Correction Branch has been advised of this decision. The application is, thereby, forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by FOUR HUNDRED SEVEN (407) days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in cursive script, reading "Patricia Faison-Ball". The signature is written in black ink and is positioned above the printed name and title.

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



**DRAFT**  
**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**CERTIFICATE OF CORRECTION**

PATENT : 7,892,254 B2

DATED : February 22, 2011

INVENTOR(S) : Henrik S. Klint

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (287) days

Delete the phrase "by 287 days" and insert – by 407 days--





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8<sup>TH</sup> FLOOR  
NEW YORK, NY 10016-0601

**MAILED**

OCT 21 2010

OFFICE OF PETITIONS

In re Patent No. 7,225,950  
Issue Date: June 5, 2007  
Application No. 10/813,985  
Filed: March 31, 2004  
Attorney Docket No. RBD-106-E


NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

  
Irvin Dingle  
Petitions Examiner  
Office of Petitions





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QUALCOMM INCORPORATED  
5775 MOREHOUSE DR.  
SAN DIEGO, CA 92121

**MAILED**  
**JUN 28 2011**  
**OFFICE OF PETITIONS**

In re Application of Rose	:	
Application No. 10/814,065	:	Decision on Petition
Filing Date: March 30, 2004	:	
Attorney Docket No. PA392C1C2C2	:	

This is a decision on the petition under 37 CFR 1.137(b) filed June 2, 2011, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed March 1, 2011, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on June 2, 2011. A Notice of Abandonment was mailed June 8, 2011.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed,
- (2) The petition fee, and
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.<sup>1</sup>

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied (1) a reply in the form of payment of the issue fee and publication fee, (2) the required petition fee of \$1,620, and (3) the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

---

<sup>1</sup> A terminal disclaimer is also necessary if the application is a design application or if the application was filed on or before June 8, 1995.



The Office of Data Management, Patent Publication Branch, will be informed of the instant decision and the application will be issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'Charles Brantley', with a stylized flourish at the end.

Charles Steven Brantley  
Senior Petitions Attorney  
Office of Petitions





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P.O. BOX 1022  
MINNEAPOLIS, MN 55440-1022

**MAILED**

**FEB 24 2012**

**OFFICE OF PETITIONS**

In re Application of :  
Kalpana Kamath, et al. :  
Application No. 10/814,079 :  
Filed: March 30, 2004 :  
Attorney Docket No. 01194-447001 / 02-160: .

**ON PETITION**

This is a decision on the petition, filed February 23, 2012, under 37 CFR 1.313(a) to withdraw the above-identified application from issue.

It does not appear that the petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Matthew L. Fedowitz appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. However, if Mr. Fedowitz desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to petitioner; however, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **DISMISSED**.

37 CFR 1.313(a) states in part:

“Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in 1.17(h) and a showing of good and sufficient reason why withdrawal of the application from issue is necessary.

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 CFR 1.17(h). The petition includes the requisite petition fee and authorization for the fee submission of an information disclosure statement under 37 CFR 1.17(p).

However, the petition does not set forth good and sufficient reasons as to why withdrawal of the application from issue is necessary. The mere submission of an information disclosure statement



(IDS) with the petition does not make withdrawal of the application from issue necessary. There were other avenues open to applicant to have the IDS considered other than by way of a petition.

Following the part of 37 CFR 1.313(a) cited above, 37 CFR 1.313(a) goes on to state:

“A petition under this section is not required if a request for continued examination under 1.114 is filed prior to payment of the issue fee.”

The filing of a RCE under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e) would have been a proper available option to have the IDS considered. It is well documented that an IDS satisfies the submission requirement under 37 CFR 1.114. For example, see MPEP 706.07(h)(II).

Accordingly, it is neither necessary nor proper to withdraw an application from issue under 37 CFR 1.313(a) for the examiner to consider an information disclosure statement submitted after allowance.

The application is being forwarded to the supervisory patent examiner for consideration of the information disclosure statement under 37 CFR 1.97(d).

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions

cc: MATTHEW L. FEDOWITZ  
BINGHAM MCCUTCHEN LLP  
2020 K STREET, NW  
WASHINGTON, DC 20006



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

DATE : 9/23/10 Paper No.:             
TO SPE OF : ART UNIT 2112  
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/814449 Patent No.: 7287208 B2

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)  
Randolph Square – 9D10-A  
Palm Location 7580**

*Virginia Tolbert*

**Certificates of Correction Branch**

**571-272-0460**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

**Specify below which changes do not apply.**

☐ **Denied**

**State the reasons for denial below.**

**Comments:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

  
**SCOTT BADERMAN**

**SUPERVISORY PATENT EXAMINER**

2112





UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
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Alexandria, VA 22313-1450  
www.uspto.gov

**THE NATH LAW GROUP**  
**112 South West Street**  
**Alexandria VA 22314**

**MAILED**

**JAN 24 2011**

**OFFICE OF PETITIONS**

In re Patent No. 6,957,118 :  
Issue Date: October 18, 2005 :  
Application No. 10/814,653 : **NOTICE**  
Filed: April 1, 2004 :  
Attorney Docket No. 25394 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 8, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Carl Friedman/  
Carl Friedman  
Petitions Examiner  
Office of Petitions





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SAP/BSTZ  
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP  
1279 OAKMEAD PARKWAY  
SUNNYVALE, CA 94085-4040

Mail Date: 08/04/2010

<b>Applicant</b>	: Miroslov R. Petrov	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7661066	: RECALCULATION of PATENT
<b>Issue Date</b>	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/814,915	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 03/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **714** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH*\*

Attorney Docket  
Number: P19060

Patent Number: 7,665,008

Filing Date  
(or 371(b) or (f) Date): 03-31-2004

Issue Date: 02-16-2010

First Named  
Inventor: Bo Xia

Title: METHOD AND APPARATUS FOR IMPLEMENTING A LOW DENSITY PARITY CHECK CODE IN A WIRELESS SYSTEM

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

\**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Alan Pedersen-Giles/

Date 07-08-2010

Name  
(Print/Typed) Alan Pedersen-Giles

Registration Number 39,996

**Note:** Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below\*.



\*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



**Instruction Sheet for:**  
**REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT**  
**IN VIEW OF *WYETH*\***  
(Not to be Submitted to the USPTO)

**This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).**

**This form must be filed within 180 days of the day the patent was granted, with the following exception:**

Patentees who received a decision from the USPTO under the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of *Wyeth* (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

**Do not use this form if the application has been allowed, but not yet issued as a patent.**

- 1. For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.
- 2. For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at <http://www.uspto.gov/patents/law/notices/2010.jsp>.

\**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).



## Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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Thorpe North & Western LLP  
c/o CPA Global  
PO Box 52050  
Minneapolis, MN 55402

Mail Date: 08/16/2010

<b>Applicant</b>	: Bo Xia	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7665008	: RECALCULATION of PATENT
<b>Issue Date</b>	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/815,133	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 03/31/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1015** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT          ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)</b>	
Application Number	10815304	
Filing Date	31-Mar-2004	
First Named Inventor	Jason Mayeroff	
Attorney Docket Number	MAYEROFF04-01	
Title	GAMING DEVICE AND METHOD OF CONDUCTING A GAME WITH A CHANGEABLE BONUS V	
<p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.</p> <p>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION</p> <p>NOTE: A grantable petition requires the following items:</p> <p>(1) Petition fee;</p> <p>(2) Reply and/or issue fee;</p> <p>(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and</p> <p>(4) Statement that the entire delay was unintentional</p>		
<p>Petition Fee</p> <p><input type="radio"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="radio"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input checked="" type="radio"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input type="radio"/> Applicant(s) status remains as other than SMALL ENTITY.</p>		
<p>2. Reply and/or fee</p> <p><input type="radio"/> I certify, in accordance with 37 CFR 1.4(d)(4) that the amendment and response have already been filed in the above-identified application on</p> <p><input type="radio"/> Amendment and response are attached</p> <p>RCE request,submission, and fee.</p> <p><input type="radio"/> I certify, in accordance with 37 CFR 1.4(d)(4) that the RCE Request, Submission, and Fee have already been filed in the above-identified application on</p> <p><input type="radio"/> RCE Request, Submission, and Fee are attached</p>		
Notice of Appeal		



☐ I certify, in accordance with 37 CFR 1.4(d)(4) that the Notice of Appeal and Fee have already been filed in the above-identified application on

☒ Notice of Appeal and Fee are attached

3. Terminal Disclaimer is not required, since the Electronic Petition format is not support for Design applications and applications filed before June 8, 1995. Please file using regular petition format for review by the Office of Petitions.

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.

☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.

☐ A sole inventor

☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors

☐ A joint inventor; all of whom are signing this e-petition

☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Robert Ryan Morishita/
Name	Robert Ryan Morishita
Registration Number	42907





## UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
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[www.uspto.gov](http://www.uspto.gov)

Decision Date April 5, 2012

In re Application of Jason Mayeroff

Application No. 10815304

Filed: 31-Mar-2004

### DECISION ON PETITION

UNDER CFR 1.137(b)

Attorney Docket No. MAYEROFF04-0

This is an electronic decision on the petition under 37 CFR 1.137(b), April 5, 2012, to revive the above-identified application.

The petition is GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the outstanding final Office action. The date of abandonment is the day after the last day of the period set for reply in the Office action plus any applicable extensions of time properly requested.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal, and the appeal fee required by 37 CFR 41.20(b)(1); (2) the petition fee as set forth in 37 CFR 1.17 (m); and (3) the required statement of unintentional delay have been received. Accordingly, the Notice of Appeal is accepted as having been unintentionally delayed.

The two-month period for filing an appeal brief under 37 CFR 41.37(a)(1), accompanied by the fee required by 37 CFR 41.20(b)(2) runs from the date of this decision.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Technology Center.

Office of Petitions





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Alexandria, VA 22313-1450  
www.uspto.gov

**PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.**  
**4800 IDS CENTER**  
**80 SOUTH 8TH STREET**  
**MINNEAPOLIS, MN 55402-2100**

**MAILED**

**MAR 30 2011**

**OFFICE OF PETITIONS**

In re Application of	:	
<b>Eilaz BABAEV</b>	:	
Application No. 10/815,384	:	DECISION DISMISSING PETITION
Filed: April 1, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. <b>4311.07US03</b>	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 28, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until after the Office had closed on March 28, 2011. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the \$405 filing fee and the \$130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. See MPEP § 1308.

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/  
Petitions Examiner, Office of Petitions



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

DATE : 5/25/11

TO SPE OF : ART UNIT 2112

SUBJECT : Request for Certificate of Correction for Appl. No.: 10815413 Patent No.: 7434145

CofC mailroom date: 5/16/11

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)  
Randolph Square – 9D10-A  
Palm Location 7580**

**When Requesting CofC SPE response to 571-272-3421**

Note: Col. 14, line 29 and

Col. 14, line 48-49

*Lamonte Newsome*

**Certificates of Correction Branch**

**571-272-3421**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

**Specify below which changes **do not** apply.**

☐ **Denied**

**State the reasons for denial below.**



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Comments:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**SCOTT BADERMAN  
SUPERVISORY PATENT EXAMINER**

*Art Unit 2112*

**SPE**

**Art Unit**





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COOLEY LLP  
ATTN: Patent Group  
Suite 1100  
777 - 6th Street, NW  
WASHINGTON DC 20001

**MAILED**

**DEC 15 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7123477 :  
Issued: 10/17/2006 :  
Application No. 10/815422 :  
Filed: 03/31/2004 :  
Attorney Docket No. RACK-016/00US :  
303393-2040 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 14, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

*C. T. Donnell*

Christina Tartera Donnell  
Senior Petitions Attorney  
Office of Petitions





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WEAVER AUSTIN VILLENEUVE &  
SAMPSON LLP - ALTERA  
ATTN: ALTERA  
P.O. BOX 70250  
OAKLAND CA 94612-0250

**MAILED**

JUL 19 2011

**OFFICE OF PETITIONS**

In re Application :  
Ball :  
Application No. 10/815,478 : PATENT TERM ADJUSTMENT  
Filing or 371(c) Date: March 31, 2004 :  
Dkt. No.: ALTRP134/A1466 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed June 17, 2011. This matter is being properly treated pursuant to 37 CFR 1.705(b).

The request for reconsideration of patent term adjustment is **GRANTED TO THE EXTENT INDICATED HEREIN.**

Applicant submits that the correct patent term adjustment to be indicated on the patent is 102 days, not zero days as calculated by the Office as of the mailing of the initial determination of patent term adjustment mailed March 18, 2011. Applicant asserts that the application is entitled to an adjustment of 336 days pursuant to 37 CFR 1.702(a)(1). Applicant further asserts that the period of applicant delay is 234 days, not 235 as calculated by the Office.

Applicant's arguments have been carefully reviewed and found in part persuasive. As argued, the applicant is entitled to an adjustment of 336 days pursuant to 37 CFR 1.702(a)(1) in connection with the non-final Office action mailed June 15, 2005.

Applicant's calculation of reduction does not reflect the one day reduction pursuant to 37 CFR 1.704(c)(8) in connection with the supplemental reply filed April 15, 2008. The reduction commenced April 15, 2008, the day after the date that the initial reply was filed, and ended April 15, 2008, the date that the supplemental reply was filed.

Further review of the record reveals that the period of adjustment is subject to further reduction of 48 days pursuant to 37 CFR 1.704(c)(8) in connection with the supplemental reply filed September 1, 2010. The reduction commenced July 17, 2010, the day after the date that the initial reply was filed, and ended September 1, 2010, the date that the supplemental reply was filed.

In view thereof, as of the time of allowance, the application is entitled to a patent term adjustment of 53 days (pre-allowance adjustment of 336 days less 283 days of applicant delay).



The \$200.00 patent term adjustment application required per 37 CFR 1.18(e) has been charged to the authorized deposit account.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

*/ALESIA M. BROWN/*

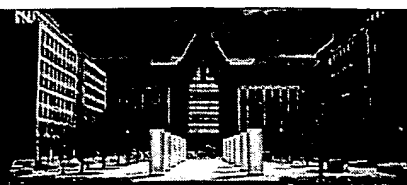
Alesia M. Brown  
Attorney Advisor  
Office of Petitions

Enclosure:     Adjusted PAIR Calculation





# Patent Term Adjustments



PTA/PTE Information    Patent Term Adjustment    Patent Term Extension

Application Number\*: 10815478

Search

Explanation of PTA Calculation

Explanation of PTE Calculation

PTA Calculations for Application: 10815478

Application Filing Date	03/31/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays	0
A Delays	0	PTO Manual Adjustment	288
B Delays	0	Applicant Delay (APPL)	235
C Delays	0	Total PTA (days)	53

\* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
163	07/17/2011		P028	Adjustment of PTA Calculation by PTO		48	0
162	07/17/2011		P028	Adjustment of PTA Calculation by PTO	336		0
153	03/18/2011		MN/=.	Mail Notice of Allowance			0
152	03/15/2011		IREV	Issue Revision Completed			0
151	03/15/2011		DVER	Document Verification			0
150	03/14/2011		N/=.	Notice of Allowance Data Verification Completed			0
149	03/14/2011		CNTA	Allowability Notice			0
144	01/09/2011		FWDX	Date Forwarded to Examiner			0
143	01/03/2011	12/03/2010	A...	Response after Non-Final Action		31	137
142	01/03/2011		XT/G	Request for Extension of Time - Granted			0
140	09/03/2010		ELC_RVW	Electronic Review			0
139	09/03/2010		EML_NTF	Email Notification			0
137	09/03/2010		MCTNF	Mail Non-Final Rejection			0
145	09/01/2010		IDSC	Information Disclosure Statement considered			0
141	09/01/2010		M844	Information Disclosure Statement (IDS) Filed			0
138	09/01/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
136	08/30/2010		CTNF	Non-Final Rejection			0
134	07/16/2010		FWDX	Date Forwarded to Examiner			0
131	07/16/2010		ABN9	Disposal for a RCE / CPA / R129			0
126	07/16/2010		EML_NTR	Email Notification			0
124	07/16/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
135	07/15/2010		IDSC	Information Disclosure Statement considered			0
133	07/15/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
132	07/15/2010		RCEX	Request for Continued Examination (RCE)			0
130	07/15/2010		LET.	Miscellaneous Incoming Letter			0
129	07/15/2010		M844	Information Disclosure Statement (IDS) Filed			0
128	07/15/2010		RCAP	Reference capture on IDS			0
127	07/15/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
125	07/15/2010		BRCE	Workflow - Request for RCE - Begin			0
123	07/09/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
122	04/15/2010		ELC_RVW	Electronic Review			0
121	04/15/2010		EML_NTF	Email Notification			0
120	04/15/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
119	04/12/2010		CTFR	Final Rejection			0
118	02/03/2010		FWDX	Date Forwarded to Examiner			0
117	01/04/2010	12/03/2009	A...	Response after Non-Final Action		32	115
116	01/04/2010		XT/G	Request for Extension of Time - Granted			0
115	09/03/2009		MCTNF	Mail Non-Final Rejection			0
114	08/31/2009		CTNF	Non-Final Rejection			0
113	06/03/2009		FWDX	Date Forwarded to Examiner			0
111	06/03/2009		FWDX	Date Forwarded to Examiner			0
109	06/03/2009		ABN9	Disposal for a RCE / CPA / R129			0
112	05/26/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
110	05/26/2009	04/26/2009	RCEX	Request for Continued Examination (RCE)		30	103
108	05/26/2009		BRCE	Workflow - Request for RCE - Begin			0
107	04/24/2009		MCTAV	Mail Advisory Action (PTOL - 303)			0
106	04/24/2009		CTAV	Advisory Action (PTOL-303)			0
105	04/10/2009		FWDX	Date Forwarded to Examiner			0
104	04/08/2009		A.NE	Amendment after Final Rejection			0
103	01/26/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
102	01/21/2009		CTFR	Final Rejection			0
100	11/08/2008		FWDX	Date Forwarded to Examiner			0
101	11/06/2008		IDSC	Information Disclosure Statement considered			0
99	11/06/2008	10/11/2008	A...	Response after Non-Final Action		26	93
98	11/06/2008		XT/G	Request for Extension of Time - Granted			0



97	11/06/2008	M844	Information Disclosure Statement (IDS) Filed	0
96	11/06/2008	LET.	Miscellaneous Incoming Letter	0
95	11/06/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
94	08/05/2008	DOCK	Case Docketed to Examiner in GAU	0
93	07/11/2008	MCTNF	Mail Non-Final Rejection	0
92	07/07/2008	CTNF	Non-Final Rejection	0
85	05/03/2008	FWDX	Date Forwarded to Examiner	0
83	05/03/2008	FWDX	Date Forwarded to Examiner	0
81	05/03/2008	ABN9	Disposal for a RCE / CPA / R129	0
91	04/15/2008	IDSC	Information Disclosure Statement considered	0
87	04/15/2008	04/14/2008 EIDS.	Electronic Information Disclosure Statement	1 82
79	04/15/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
90	04/14/2008	IDSC	Information Disclosure Statement considered	0
86	04/14/2008	EIDS.	Electronic Information Disclosure Statement	0
84	04/14/2008	AMPR	RCE- AF Processed	0
82	04/14/2008	03/12/2008 RCEX	Request for Continued Examination (RCE)	33 71
80	04/14/2008	XT/G	Request for Extension of Time - Granted	0
78	04/14/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
77	04/14/2008	BRCE	Workflow - Request for RCE - Begin	0
76	03/31/2008	MCTAV	Mail Advisory Action (PTOL - 303)	0
75	03/28/2008	CTAV	Advisory Action (PTOL-303)	0
74	03/26/2008	FWDX	Date Forwarded to Examiner	0
73	03/12/2008	A.NE	Amendment after Final Rejection	0
89	02/28/2008	IDSC	Information Disclosure Statement considered	0
88	02/28/2008	EIDS.	Electronic Information Disclosure Statement	0
72	02/28/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
71	12/12/2007	MCTFR	Mail Final Rejection (PTOL - 326)	0
70	12/10/2007	CTFR	Final Rejection	0
63	10/05/2007	FWDX	Date Forwarded to Examiner	0
67	10/03/2007	IDSC	Information Disclosure Statement considered	0
66	10/03/2007	10/03/2007 EIDS.	Electronic Information Disclosure Statement	62
65	10/03/2007	RCAP	Reference capture on IDS	0
64	10/03/2007	M844	Information Disclosure Statement (IDS) Filed	0
62	10/03/2007	08/29/2007 A...	Response after Non-Final Action	35 58
61	10/03/2007	XT/G	Request for Extension of Time - Granted	0
60	10/03/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
59	07/24/2007	DOCK	Case Docketed to Examiner in GAU	0
58	05/29/2007	MCTNF	Mail Non-Final Rejection	0
57	05/24/2007	CTNF	Non-Final Rejection	0
56	03/20/2007	FWDX	Date Forwarded to Examiner	0
54	03/20/2007	FWDX	Date Forwarded to Examiner	0
52	03/20/2007	ABN9	Disposal for a RCE / CPA / R129	0
55	03/05/2007	AMSB.	Amendment Submitted/Entered with Filing of CPA/RCE	0
53	03/05/2007	01/17/2007 RCEX	Request for Continued Examination (RCE)	47 45
51	03/05/2007	XT/G	Request for Extension of Time - Granted	0
50	03/05/2007	BRCE	Workflow - Request for RCE - Begin	0
49	01/10/2007	MCTAV	Mail Advisory Action (PTOL - 303)	0
48	01/08/2007	CTAV	Advisory Action (PTOL-303)	0
47	01/04/2007	FWDX	Date Forwarded to Examiner	0
46	12/15/2006	A.NE	Amendment after Final Rejection	0
45	10/17/2006	MCTFR	Mail Final Rejection (PTOL - 326)	0
44	10/13/2006	CTFR	Final Rejection	0
43	08/08/2006	FWDX	Date Forwarded to Examiner	0
42	08/02/2006	A...	Response after Non-Final Action	0
41	07/19/2006	DOCK	Case Docketed to Examiner in GAU	0
40	05/02/2006	MCTNF	Mail Non-Final Rejection	0
39	04/28/2006	CTNF	Non-Final Rejection	0
37	04/13/2006	DOCK	Case Docketed to Examiner in GAU	0
36	06/02/2005	C.ADB	Correspondence Address Change	0
35	05/05/2005	DOCK	Case Docketed to Examiner in GAU	0
34	04/26/2005	C.ADB	Correspondence Address Change	0
33	04/25/2005	2092	FAOM Flag Change	0
32	04/25/2005	DOCK	Case Docketed to Examiner in GAU	0
31	04/21/2005	DOCK	Case Docketed to Examiner in GAU	0
28	04/14/2005	MW/AC	Mail Notice of Withdrawn Action	0
27	04/13/2005	W/AC	Withdrawing/Vacating Office Action Letter	0
23	04/08/2005	MCTNF	Mail Non-Final Rejection	0
22	04/07/2005	CTNF	Non-Final Rejection	0
21	04/07/2005	DOCK	Case Docketed to Examiner in GAU	0
38	03/30/2005	IDSC	Information Disclosure Statement considered	0
29.7	03/30/2005	M844	Information Disclosure Statement (IDS) Filed	0
29	03/30/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
20	03/23/2005	RESC	Rescind Nonpublication Request for Pre Grant Publication	0
19	12/01/2004	TSSCOMP	IPW TSS Processing by Tech Center Complete	0
18	12/01/2004	DOCK	Case Docketed to Examiner in GAU	0
17	09/10/2004	WROIPE	Application Return from OIPE	0
16	09/10/2004	COMP	Application Is Now Complete	0
15	09/10/2004	ROIPE	Application Return TO OIPE	0
14	09/10/2004	WROIPE	Application Return from OIPE	0
13	09/10/2004	ROIPE	Application Return TO OIPE	0
12	09/10/2004	OIPE	Application Dispatched from OIPE	0
11	09/10/2004	COMP	Application Is Now Complete	0
10	08/19/2004	FLFEE	Payment of additional filing fee/Preexam	0
9	08/19/2004	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant	0
8	06/15/2004	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
4	04/29/2004	L194	Cleared by OIPE CSR	0
3	04/29/2004	CLSS	CASE CLASSIFIED BY OIPE	0
2	04/19/2004	SCAN	IPW Scan & PACR Auto Security Review	0



5	03/31/2004	NPRQ	PGPubs nonPub Request	0
1	03/31/2004	IEOX	Initial Exam Team nn	0
0.5	03/31/2004	EFILE	Filing date	0

Export to: [Excel](#)



## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/9/11

Paper No.: \_\_\_\_\_

TO SPE OF : ART UNIT 3728

SUBJECT : Request for Certificate of Correction for Appl. No.: 10815531 Patent No.: 7090093

CofC mailroom date: 2/22/11

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)  
Randolph Square - 9D10-A  
Palm Location 7580

~~You can fax the Directors/SPE response to 571-270-9990~~

*Lamonte Newsome*

Certificates of Correction Branch  
571-272-3421

Thank You For Your Assistance

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ Approved

All changes apply.

☐ Approved in Part

Specify below which changes do not apply.

☐ Denied

State the reasons for denial below.

Comments: Examiner approved

Formatted: Indent: Left: 1.22"





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**JAN 19 2011**

**OFFICE OF PETITIONS**

FISH & RICHARDSON P.C.  
PO BOX 1022  
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,475,267	: DECISION ON REQUEST
Cocoseal	: FOR
Issue Date: January 6, 2009	: RECONSIDERATION OF
Application No. 10/816,155	: PATENT TERM ADJUSTMENT
Filed: March 31, 2004	: and
Atty Docket No. 16113-1324001	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 26, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred and eighty-three (883) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred and eighty-three (883) days is **GRANTED**.

Deposit account 06-1050 will be charged \$200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred and eighty-three (883) days.



Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



**DRAFT COPY**

UNITED STATES PATENT AND TRADEMARK OFFICE

**CERTIFICATE OF CORRECTION**

PATENT : 7,475,267 B1

DATED : Jan. 6, 2009

INVENTOR(S) : Cocosei

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (436) days

Delete the phrase "by 436 days" and insert -- by 883 days--





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Commissioner for Patents  
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Paper No.

MINTZ, LEVIN, COHN, FERRIS,  
GLOVSKY AND POPEO, P.C.  
ONE FINANCIAL CENTER  
BOSTON MA 02111

**MAILED**

**SEP 27 2010**

**OFFICE OF PETITIONS**

In re Application of :  
Roberts et al. : DECISION ON  
Application No. 10/816,452 : APPLICATION FOR  
Filed: 03/31/2004 : PATENT TERM ADJUSTMENT  
Attorney Docket No. :  
01374-294 :

This is a decision on the "APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. § 1.705(b)" filed on June 8, 2010. Applicants request that the Patent Term Adjustment for the above-identified patent be corrected from 1189 days to 1348 days.

The application for patent term adjustment patent is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is ONE THOUSAND THREE HUNDRED FORTY-EIGHT (1348) days. A copy of the updated PAIR screen, showing the revised determination, is enclosed.

On March 8, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 1189 days (1438 days of Office delay reduced by 249 days of applicant delay). The subject application for patent term adjustment was timely filed on June 8, 2010.<sup>1</sup>

Applicants dispute the reduction of 159 days for the filing of the Supplemental Amendments on February 4, 2010, and February 17, 2010, respectively, after the filing of a reply on September 11, 2009. Applicants contend that the Supplemental Amendments were expressly requested by the examiner. Given these

<sup>1</sup> PALM records shows that the Issue Fee was received on June 8, 2010.



assertions, applicants maintain that the PTA at the time of the mailing of the notice of allowance is 1348 days.

37 CFR 1.704(c)(8) provides that the filing of a supplemental reply, other than one expressly requested by the examiner, constitutes a failure to engage in reasonable efforts to conclude processing or examination. The record has been reviewed and it is concluded that the Supplemental Amendments filed on February 4, 2010, and February 17, 2010, were expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8). Accordingly, the 159 day reduction is not warranted and will be removed.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is revised to ONE THOUSAND THREE HUNDRED FORTY-EIGHT (1348) days (1438 days of PTO delay, reduced by 90 (249 - 159) days of Applicant delay).

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.



Anthony Knight  
Director  
Office of Petitions

Encl: Revised PAIR Calculation





# Patent Term Adjustments



PTA/PTE Information   Patent Term Adjustment   Patent Term Extension

Application Number\*:   [Explanation of PTA Calculation](#) [Explanation of PTE Calculation](#)

PTA Calculations for Application:

Application Filing Date	03/31/2004	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1438
A Delays	1438	PTO Manual Adjustment	159
B Delays	0	Applicant Delay (APPL)	249
C Delays	0	Total PTA (days)	1348

\* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
46	09/25/2010		P028	Adjustment of PTA Calculation by PTO	133	0	
38	03/08/2010	01/11/2010	MN/-	Mail Notice of Allowance	56	24	
37	03/02/2010		TREV	Issue Revision Completed		0	
36	03/02/2010		DVER	Document Verification		0	
35	03/02/2010		N/-	Notice of Allowance Data Verification Completed		0	
34	03/01/2010		CNTA	Notice of Allowability		0	
33	02/17/2010		FWDX	Date Forwarded to Examiner		0	
32	02/17/2010	09/11/2009	SA..	Supplemental Response		152	24
31	02/17/2010		FWDX	Date Forwarded to Examiner		0	
30	02/04/2010		SA..	Supplemental Response		0	
25	10/27/2009		FWDX	Date Forwarded to Examiner		0	
24	09/11/2009	06/13/2009	ELC.	Response to Election / Restriction Filed		20	22
23	09/11/2009		XT/G	Request for Extension of Time - Granted		0	
22	03/13/2009	05/31/2005	MCTRS	Mail Restriction Requirement	1382	-1	
21	03/12/2009		CTRS	Requirement for Restriction / Election		0	
20	03/02/2009		DOCK	Case Docketed to Examiner in GAU		0	
19	02/11/2009		DOCK	Case Docketed to Examiner in GAU		0	
18	12/30/2008		DOCK	Case Docketed to Examiner in GAU		0	
17	10/06/2008		DOCK	Case Docketed to Examiner in GAU		0	
16	10/17/2007		WS25	Withdraw Flagged for 5/25		0	
15	10/15/2007		FS25	Flagged for 5/25		0	
14	01/24/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete		0	
13	01/24/2006		DOCK	Case Docketed to Examiner in GAU		0	
12	09/08/2004		T11050	Transfer Inquiry to GAU		0	
11	06/31/2004		WROIPE	Application Return from OIPE		0	
10	06/31/2004		ROIPE	Application Return TO OIPE		0	
9	06/31/2004		OIPE	Application Dispatched from OIPE		0	
8	06/31/2004		COMP	Application Is Now Complete		0	
7	06/10/2004		ADDFLFE	Additional Application Filing Fees		0	
6	06/10/2004		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant		0	
5	05/14/2004		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned		0	
4	05/05/2004		L194	Cleared by OIPE CSR		0	
3	05/05/2004		CLSS	CASE CLASSIFIED BY OIPE		0	
2	04/14/2004		SCAN	IFW Scan & PACR Auto Security Review		0	
1	03/31/2004		TEXX	Initial Exam Team nn		0	

Export to: [Excel](#)





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NAVAL RESEARCH LABORATORY  
ASSOCIATE COUNSEL (PATENTS)  
CODE 1008.2  
4555 OVERLOOK AVENUE, S.W.  
WASHINGTON DC 20375-5320

MAILED  
APR 11 2011  
OFFICE OF PETITIONS

In re Patent No. RE39332	:	
Issue Date: October 10, 2006	:	
Application No. 10/816,595	:	ON PETITION
Filed: March 25, 2004	:	
Attorney Docket No. 96220-US1	:	

This is a decision on the petition under 37 CFR 1.378(c), filed February 24, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 11, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

The patent file is being forwarded to Files Repository.

/Terri Johnson/  
Terri Johnson  
Petitions Examiner  
Office of Petitions





## UNITED STATES PATENT AND TRADEMARK OFFICE

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[www.uspto.gov](http://www.uspto.gov)

In re Patent No. 7225636  
Issue Date: June 5, 2007  
Application No. 10816793  
Filed: April 1, 2004  
Attorney Docket No. 26820/04

:

:DECISION GRANTING PETITION  
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed December 31, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 31, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7225636	2007-06-05	10816793	2004-04-01	

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

	Fee	Code
<input checked="" type="radio"/> 3 ½ year		(1551)
<input type="radio"/> 7 ½ year		(1552)
<input type="radio"/> 11 ½ year		(1553)

### Small Entity

	Fee	Code
<input type="radio"/> 3 ½ year		(2551)
<input type="radio"/> 7 ½ year		(2552)
<input type="radio"/> 11 ½ year		(2553)

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/j m gilbreth/	Date (YYYY-MM-DD)	2011-12-31
Name	j m gilbreth	Registration Number	33388
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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TORONTO ON M5H 3Y2  
CANADA

**MAILED**

**SEP 20 2010**

In re Application of  
Patel, et al.  
Application No. 10/816,841  
Filed: April 5, 2004  
Attorney Docket No. 12351-12  
For: PACKET BASED TRANSMISSION  
OF MULTIPLE DATA SIGNALS

**OFFICE OF PETITIONS**  
**ON PETITION**

This is a decision on the petition under 37 CFR 1.137(b), filed April 29, 2010, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." Petitioners are advised that this is not a final agency decision.

This application became abandoned for failure to properly reply to the final Office action, mailed June 24, 2009, which set an extendable three month period for reply. Applicants submitted an amendment after final on August 20, 2009. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the September 23, 2009 Advisory action. Applicants submitted a three month extension of time and an amendment after final on December 23, 2009. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the February 18, 2010 Advisory action. Accordingly, this application became abandoned on December 25, 2009. A Notice of Abandonment was mailed on February 18, 2010.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed.;
- (2) the petition fee as set forth in 37 CFR 1.17(m);



- (3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
- (4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (1) above.


Petitioners are reminded that after a final Office action, there are only five possible replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (5) an RCE. To be a proper reply, an amendment after final must place the case in *prima facie* condition for allowance. Examiner Zhu has indicated that the reply filed April 29, 2010 fails to place the application in *prima facie* condition for allowance. Please see the enclosed Advisory Action Before the Filing of an Appeal Brief for more details.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web <a href="http://www.uspto.gov/ebs/efs_help.html">www.uspto.gov/ebs/efs_help.html</a> (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)



Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

  
Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions

Enclosure:     Advisory Action Before the Filing of an Appeal Brief for Application No.  
                     10/816,841



<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 10/816,841	<b>Applicant(s)</b> PATEL ET AL.	
	<b>Examiner</b> BO HUI A. ZHU	<b>Art Unit</b> 2465	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 29 April 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/Jayanti K. Patel/  
Supervisory Patent Examiner, Art Unit 2465

/B. A. Z./  
Examiner, Art Unit 2465



Continuation of 3. NOTE: The proposed amendments raise new issues that would require further consideration and/or search. More specifically, the scopes of the indicated allowable claims 5 and 11 from Final Office action of 06/24/2009 are changed by the proposed amendments. The scope of the amended claim 35 with the addition of the limitations from claim 5 which is canceled by the current proposed amendments would require further consideration and/or search because claim 5 was not a dependent claim of claim 35.





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BERESKIN AND PARR LLP/S.E.N.C.R.L., s.r.l.  
40 KING STREET WEST  
BOX 401  
TORONTO ON M5H 3Y2  
CANADA

**MAILED**

**JAN 04 2011**

**OFFICE OF PETITIONS**

In re Application of	:	
Patel, et al.	:	
Application No. 10/816,841	:	ON PETITION
Filed: April 5, 2004	:	
Attorney Docket No. 12351-12	:	
For: PACKET BASED TRANSMISSION	:	
OF MULTIPLE DATA SIGNALS	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 8, 2010, to revive the above-identified application.

This application became abandoned for failure to properly reply to the final Office action, mailed June 24, 2009, which set an extendable three month period for reply. Applicants submitted an amendment after final on August 20, 2009. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the September 23, 2009 Advisory action. Applicants submitted a three month extension of time and an amendment after final on December 23, 2009. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the February 18, 2010 Advisory action. Accordingly, this application became abandoned on December 25, 2009. A Notice of Abandonment was mailed on February 18, 2010. A petition to revive under 37 CFR 1.137(b), filed on April 29, 2010, was dismissed on September 20, 2010.

Applicants have submitted a RCE, authorization to charge the \$405.00 required fee to petitioners' deposit account, and a request to use the previously filed amendment of April 29, 2010 as the submission in reply to the June 24, 2009 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the June 24, 2009 final Office action, and the \$810.00 petition fee.


The petition is **GRANTED**.

Regarding fees, applicants have submitted two \$810.00 revival fees. Only one is necessary. Deposit account no. 02-2095 will be refunded \$810.00. Pursuant to applicants' authorization, deposit account no. 02-2095 will be charged the \$405.00 RCE filing fee.



This application is being referred to Technology Center AU 2465 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment previously submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

  
Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions





## UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 7315242  
Issue Date: January 1, 2008  
Application No. 10817000  
Filed: April 2, 2004  
Attorney Docket No. 021906.0003US2

:

:DECISION GRANTING PETITION  
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed February 17, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 17, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7315242	2008-01-01	10817000	2004-04-02	021906.0003US2

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                                 | Fee | Code   |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year  |     | (1551) |
| <input type="radio"/> 7 ½ year  |     | (1552) |
| <input type="radio"/> 11 ½ year |     | (1553) |

### Small Entity

- |   | Fee | Code   |
|---|-----|--------|
| <input checked="" type="radio"/> 3 ½ year |     | (2551) |
| <input type="radio"/> 7 ½ year            |     | (2552) |
| <input type="radio"/> 11 ½ year           |     | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert D. Fish/	Date (YYYY-MM-DD)	2012-02-17
Name	Robert D. Fish	Registration Number	33880
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



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The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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PHILIP S JOHNSON  
JOHNSON & JOHNSON  
ONE JOHNSON & JOHNSON PLAZA  
NEW BRUNSWICK NJ 08933-7003

**MAILED**

**AUG 17 2010**

In re Application of	:	<b>OFFICE OF PETITIONS</b>
Goodfried, et al.	:	
Application No. 10/817,051	:	<b>ON REQUEST FOR</b>
Filed: April 2, 2004	:	<b>RECONSIDERATION OF</b>
Attorney Docket Number: DEP5111NP	:	<b>PATENT TERM ADJUSTMENT</b>

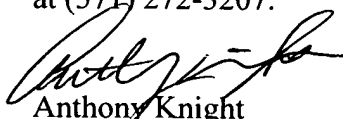
This is a decision on the petition under 37 CFR 1.705(b), filed May 18, 2010. Applicants believe that they should be accorded an additional PTA of 549 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

The application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED**. Applicants did not pay the required \$200 PTA fee. As such, the Office will not look into the matter on the merits.

Applicants are reminded that knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

  
Anthony Knight  
Director  
Office of Petitions





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**FOLEY & LARDNER LLP**  
**P.O. BOX 80278**  
**SAN DIEGO CA 92138-0278**

**MAILED**

**OCT 14 2011**

**OFFICE OF PETITIONS**

In re Application of :  
David Alan Campbell, et al. :  
Patent No. 7,365,178 :  
Application No. 10/817,454 :  
Filed: April 1, 2004 :  
Attorney Docket No. 063391-1802 :

**NOTICE**

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/  
Terri Johnson  
Petitions Examiner  
Office of Petitions





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**MAILED**

**SEP 23 2010**

**OFFICE OF PETITIONS**

**Fitch Even Tabin & Flannery**  
**120 South LaSalle Street Suite 1600**  
**Chicago IL 60603-3406**

In re Patent No. 7,045,034  
Issue Date: May 16, 2006  
Application No. 10/817,534  
Filed: April 2, 2004  
Attorney Docket No. 82537

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**ON PETITION**

This is a decision on the petition filed July 26, 2010, which will be treated as a petition under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 17, 2010, for failure to pay the four and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

37 CFR 1.138(c) requires a statement that "the delay in payment of the maintenance fee to this patent was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.138(c), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.



Patent No. 7,045,034

Page 2

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet  
Petitions Examiner  
Office of Petitions





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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC  
ATTN: PATENT DOCKETING  
P.O. BOX 7037  
ATLANTA GA 30357-0037

**MAILED**

**SEP 27 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,740,142

Issue Date: June 22, 2010

Application No. 10/817,559

Filed: April 2, 2004

Attorney Docket No. D1243 1010.1(01243.0133.

DECISION ON PETITION

This is a decision on the Request Under 37 CFR 3.81(b), filed on July 19, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name and residence. The Request is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name and residence on the previously submitted PTOL-85B and such error was inadvertent. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to correct assignee's name and residence to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

*After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

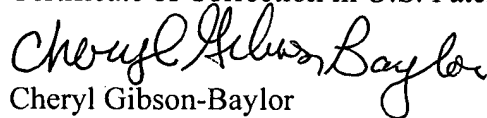


The requisite \$100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), has been submitted. However, the \$130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), was accompanied deposit account authorization to charge any required fees. As such, the fee has been charged as authorized. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form PTO/SB/44 submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,740,142.



Cheryl Gibson-Baylor  
Petitions Examiner  
Office of Petitions



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Paper No.:** \_\_\_\_\_

**DATE** : 11/23/10

**TO SPE OF** : ART UNIT 1625

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 10817688 Patent No.: 7199134

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (C of C)  
Randolph Square 9D40-D  
Palm Location 7580**

**You can fax the Directors/SPE response to 571-270-9990**

*Lamonte Newsome*  
\_\_\_\_\_  
Certificates of Correction Branch  
571-272-3421

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

**Specify below which changes do not apply.**

☐ **Denied**

**State the reasons for denial below.**

**Comments:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**/Janet L. Andres/  
SPE**

\_\_\_\_\_  
**1625  
Art Unit**



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**





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PO BOX 1022  
MINNEAPOLIS MN 55440-1022

**MAILED**  
**DEC 06 2011**  
**OFFICE OF PETITIONS**

In re Patent No. 8,012,747	:
Friedman et al.	:
Application No. 10/817718	:
Filing or 371(c) Date: 04/02/2004	:
Attorney Docket No.	:
07252-0031US1	:
	: DECISION ON
	: APPLICATION FOR
	: PATENT TERM ADJUSTMENT
	: UNDER 37 CFR 1.705(b)
	:

This is a decision on the “APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(b),” filed November 8, 2011. Applicant petitions for reconsideration of the patent term adjustment to three hundred fifty-four (354) days, not two hundred fifty-two (252) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction based upon (1) an assertion that the Office erred in calculating a delay of 585 days, and (2), the Office erred in calculating a reduction of 60 days.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment (“PTA”) under 37 CFR 1.705(b), is **GRANTED to the EXTENT INDICATED.**

On August 8, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is two hundred fifty-two (252) days.

On November 8, 2011, Applicant timely submitted the instant application for patent term adjustment<sup>1</sup>. Applicant requests that the Determination of Patent Term Adjustment be corrected from two hundred fifty-two (252) days, as indicated on the Determination of PTA mailed August 8, 2011, to an adjustment of three hundred fifty-four (354) days. Applicant avers that the Office erred in calculating a delay of 585 days, and (2) the Office erred in calculating a reduction of 60 days.

<sup>1</sup> PALM records show that the Issue Fee payment was received in the Office on November 8, 2011.



Applicant asserts that the Office erred in calculating a delay of 585 days, and (2) the Office erred in calculating a reduction of 60 days. The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed August 8, 2011 indicates a patent term of two hundred fifty-two (252) days. The present request for reconsideration of patent term adjustment indicates that the Office may have erred in calculating a reduction of 585 in connection with the mailing of an Office communication requiring applicant to comply with the sequence rules. Applicant provides that a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures, is a notice issued as part of the pre-examination processing of an application and is not a notice issued as a result of examination conducted pursuant to 35 U.S.C. 131, and thus is not a notification under 35 U.S.C. 132. Accordingly, applicant avers that the adjustment pursuant to 37 CFR 1.702(a)(1) is properly calculated at 685 days, beginning on the day after the date that is fourteen months after the date on which the application was filed, June 3, 2005, and ending with the mailing of a Restriction Requirement, mailed April 18, 2007.

Applicant also avers that the Office erred in calculating a reduction of 60 days in connection with the filing of a reply to an Office action, mailed June 25, 2010, three months and 60 days after the Office action was mailed, on November 24, 2010. The period of reduction was calculated from the day after the date that the reply was due, September 26, 2010, to the filing of the reply to the Office action, November 24, 2010. Applicant asserts that the period of reduction is properly calculated pursuant to 35 U.S.C. § 154(b)(2)(c)(ii), from September 27, 2010, as September 25, 2010 falls over a weekend.

Applicant's arguments have been carefully considered. Regarding the adjustment of 585 days, a review of Office records confirms that the adjustment pursuant to 37 CFR 1.702(a)(1) is properly calculated at 685 days, beginning on the day after the date that is fourteen months after the date on which the application was filed, June 3, 2005, and ending with the mailing of a Restriction Requirement, mailed April 18, 2007.

Regarding the reduction of 60 days, Office records confirm that the reply to the Office action was filed on Wednesday, November 24, 2010, and that Tuesday, November 23, 2010 was neither a weekend nor a Federal holiday within the District of Columbia. As stated in ArQule, 35 U.S.C. § 21(b) applies to any action an applicant can take, including timeliness of an applicant's response to a PTO request. ArQule at p.10. (Emphasis added). The Office properly calculated the period of reduction beginning on the day after the date that is three months after the date of mailing or transmission of the Office action, June 26, 2010, and ending on the date applicant filed the reply, November 24, 2010, and is 60 days.

In view thereof, as of the time of allowance, the application is entitled to an overall patent term adjustment of three hundred fifty-two (352) days, subject to any terminal disclaimer.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.



The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods  
Attorney  
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations



## Best Available Copy



PTA/PTE Information    Patent Term Adjustment    Patent Term Extension

Application Number\*: 10817718

Search

Explanation of PTA Calculation

Explanation of PTE Calculation

PTA Calculations for Application: 10817718

Application Filing Date	04/02/2004	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	585
A Delays	585	PTO Manual Adjustment	100
B Delays	0	Applicant Delay (APPL)	333
C Delays	0	Total PTA (days)	352

\* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
139	12/03/2011		P028	Adjustment of PTA Calculation by PTO	100		0
119	08/08/2011		MN/=.	Mail Notice of Allowance			0
118	08/03/2011		OAR	Office Action Review			0
117	08/03/2011		IREV	Issue Revision Completed			0
116	08/03/2011		DVER	Document Verification			0
115	08/03/2011		N/=.	Notice of Allowance Data Verification Completed			0
114	08/03/2011		DOCK	Case Docketed to Examiner in GAU			0
113	08/01/2011		CNTA	Allowability Notice			0
110	06/22/2011		FWDX	Date Forwarded to Examiner			0
109	06/16/2011		A...	Response after Non-Final Action			0
108	03/18/2011		ELC_RVW	Electronic Review			0
107	03/17/2011		EML_NTF	Email Notification			0
106	03/17/2011		MCTNF	Mail Non-Final Rejection			0
105	03/13/2011		OAR	Office Action Review			0
104	03/13/2011		CTNF	Non-Final Rejection			0
103	11/29/2010		FWDX	Date Forwarded to Examiner			0
100	11/29/2010		ABN9	Disposal for a RCE / CPA / R129			0
102	11/24/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
101	11/24/2010	09/25/2010	RCEX	Request for Continued Examination (RCE)		60	91
99	11/24/2010		XT/G	Request for Extension of Time - Granted			0
98	11/24/2010		BRCE	Workflow - Request for RCE - Begin			0
97	09/24/2010		LET.	Miscellaneous Incoming Letter			0
96	08/26/2010		EML_NTR	Email Notification			0
95	08/26/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
94	08/20/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
93	07/03/2010		PST_CRD	Mail Post Card			0
92	06/25/2010		EML_NTF	Email Notification			0
91	06/25/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
89	06/21/2010		CTFR	Final Rejection			0
85	04/07/2010		FWDX	Date Forwarded to Examiner			0
87	03/18/2010		IDSC	Information Disclosure Statement considered			0
86	03/18/2010	03/18/2010	M844	Information Disclosure Statement (IDS) Filed			84
84	03/18/2010	12/18/2009	A...	Response after Non-Final Action		90	77
83	03/18/2010		XT/G	Request for Extension of Time - Granted			0
82	03/18/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
88	01/07/2010		IDSC	Information Disclosure Statement considered			0
81	01/07/2010		M844	Information Disclosure Statement (IDS) Filed			0
80	01/07/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
79	09/18/2009		ELC_RVW	Electronic Review			0
78	09/18/2009		EML_NTF	Email Notification			0
77	09/18/2009		MCTNF	Mail Non-Final Rejection			0
76	09/14/2009		CTNF	Non-Final Rejection			0
73	07/30/2009		FWDX	Date Forwarded to Examiner			0
71	07/30/2009		FWDX	Date Forwarded to Examiner			0
69	07/30/2009		ABN9	Disposal for a RCE / CPA / R129			0
75	07/28/2009		IDSC	Information Disclosure Statement considered			0
74	07/28/2009		M844	Information Disclosure Statement (IDS) Filed			0
72	07/28/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
70	07/28/2009	04/28/2009	RCEX	Request for Continued Examination (RCE)		91	61
68	07/28/2009		XT/G	Request for Extension of Time - Granted			0
67	07/28/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
66	07/28/2009		BRCE	Workflow - Request for RCE - Begin			0
65	07/16/2009		EML_NTR	Email Notification			0
64	07/16/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
63	01/28/2009		ELC_RVW	Electronic Review			0



62	01/28/2009	EML_NTF	Email Notification	0
61	01/28/2009	MCTFR	Mail Final Rejection (PTOL - 326)	0
60	01/21/2009	CTFR	Final Rejection	0
55	11/07/2008	FWDX	Date Forwarded to Examiner	0
59	10/08/2008	IDSC	Information Disclosure Statement considered	0
58	10/08/2008	IDSC	Information Disclosure Statement considered	0
57	10/08/2008	RCAP	Reference capture on IDS	0
56	10/08/2008	10/08/2008 M844	Information Disclosure Statement (IDS) Filed	54
54	10/08/2008	07/08/2008 A...	Response after Non-Final Action	92 50
53	10/08/2008	XT/G	Request for Extension of Time - Granted	0
52	10/08/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
51	10/08/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
50	04/08/2008	MCTNF	Mail Non-Final Rejection	0
49	03/31/2008	CTNF	Non-Final Rejection	0
48	01/28/2008	FWDX	Date Forwarded to Examiner	0
47	01/07/2008	A...	Response after Non-Final Action	0
46	10/09/2007	MCTNF	Mail Non-Final Rejection	0
45	10/01/2007	CTNF	Non-Final Rejection	0
43	07/19/2007	FWDX	Date Forwarded to Examiner	0
42	07/17/2007	ELC	Response to Election / Restriction Filed	0
41	07/17/2007	XT/G	Request for Extension of Time - Granted	0
40	04/18/2007	MCTRS	Mail Restriction Requirement	0
39	04/16/2007	CTRS	Restriction/Election Requirement	0
38	02/08/2007	FWDX	Date Forwarded to Examiner	0
37	01/19/2007	A...	Response after Non-Final Action	0
32	01/08/2007	06/02/2005 MCTMS	Mail Miscellaneous Communication to Applicant	585 0.5
31	01/03/2007	CTMS	Miscellaneous Action with SSP	0
33	08/01/2006	IDSC	Information Disclosure Statement considered	0
30.7	08/01/2006	M844	Information Disclosure Statement (IDS) Filed	0
30	08/01/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
29	04/24/2006	C.AD	Correspondence Address Change	0
34	02/06/2006	IDSC	Information Disclosure Statement considered	0
26.7	02/06/2006	M844	Information Disclosure Statement (IDS) Filed	0
26	02/06/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
35	10/27/2005	IDSC	Information Disclosure Statement considered	0
25.7	10/27/2005	M844	Information Disclosure Statement (IDS) Filed	0
25	10/27/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
24	08/11/2005	DOCK	Case Docketed to Examiner in GAU	0
23	06/28/2005	DOCK	Case Docketed to Examiner in GAU	0
22	09/18/2004	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
18	08/30/2004	DOCK	Case Docketed to Examiner in GAU	0
17	08/27/2004	WROIPE	Application Return from OIPE	0
16	08/27/2004	ROIPE	Application Return TO OIPE	0
15	08/27/2004	WROIPE	Application Return from OIPE	0
14	08/27/2004	COMP	Application Is Now Complete	0
13	08/27/2004	ROIPE	Application Return TO OIPE	0
12	08/27/2004	OIPE	Application Dispatched from OIPE	0
11	08/27/2004	COMP	Application Is Now Complete	0
36	08/19/2004	IDSC	Information Disclosure Statement considered	0
21	08/19/2004	RCAP	Reference capture on IDS	0
20.7	08/19/2004	M844	Information Disclosure Statement (IDS) Filed	0
20	08/19/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
10	07/30/2004	ADDFLFE	Additional Application Filing Fees	0
9	07/30/2004	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant	0
19	07/19/2004	A.PE	Preliminary Amendment	0
8	07/19/2004	WAMD	Workflow incoming amendment IFW	0
7	06/30/2004		Notice Mailed--Application Incomplete--Filing Date Assigned	0
6	05/11/2004	L194	Cleared by OIPE CSR	0
5	05/11/2004	CLSS	CASE CLASSIFIED BY OIPE	0
4	04/21/2004	SCAN	IFW Scan & PACR Auto Security Review	0
3	04/19/2004	CRFE	CRF Is Good Technically / Entered into Database	0
2	04/02/2004	CRFL	CRF Disk Has Been Received by Preexam / Group / PCT	0
1	04/02/2004	IEOX	Initial Exam Team nn	0
0.5	04/02/2004	EFIL	Filing date	0

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MINNEAPOLIS MN 55440-1022

**MAILED**  
**MAR 05 2012**  
**OFFICE OF PETITIONS**

In re Patent of	:
Friedman et al.	:
Application No. 10/817718	:
Filing or 371(c) Date: 04/02/2004	:
Patent No. 8,088,737	:
Issue Date: 01/03/2012	:
Attorney Docket No.	:
07252-0031US1	:

This is a decision on the petition filed on February 6, 2012, which is being treated as a renewed petition under 37 CFR 1.705(b) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred one (1201) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred one (1201) days is **GRANTED**.

Applicant filed an Application for Patent Term Adjustment under 37 CFR 1.705(b), on November 8, 2011. The Application for Patent Term Adjustment requested, inter alia, correction of the patent term pursuant to 35 U.S.C. § 154(b)(2)(c)(ii), based upon a three month reply date falling on a weekend. The decision on the Application for Patent Term Adjustment dismissed Applicant's request for recalculation of the PTA based upon the three month reply date falling on a weekend.

On January 3, 2012, the above-identified application matured into U.S. Patent No. 8,088,737. The patent issued with a PTA of 1199 days.

Patentee files the present renewed petition and again contests the reduction of 60 days in connection with the filing of a reply to an Office action, mailed June 25, 2010, three months and 60 days after the Office action was mailed, on November 24, 2010. Patentee argues that the period of reduction is properly calculated pursuant to 35 U.S.C. § 154(b)(2)(c)(ii), using



September 27, 2010, as September 25, 2010 falls over a weekend, and that the period of reduction is therefore 58 days.

Patentees' arguments have been carefully considered. A review of the record confirms that September 25, 2010 falls over a weekend, and that the period of reduction is properly calculated pursuant to 35 U.S.C. § 154(b)(2)(c)(ii), beginning September 28, 2010, and ending on November 24, 2010, is 58 days.

In view thereof, it is concluded that the patent should have issued with a revised Patent Term Adjustment of one thousand two hundred one (1201) days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred one (1201) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods  
Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 8,088,737 B2

DATED : January 3, 2012

INVENTOR(S) : Friedman et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1199 days.

Delete the phrase "by 1199 days" and insert – by 1201 days--





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**MAILED**  
**APR 16 2012**  
**OFFICE OF PETITIONS**

In re Application of	:	
Friedman et al.	:	
Patent Number: 8,088,737	:	DECISION ON
Issue Date: 01/03/2012	:	APPLICATION FOR
Application No. 10/817718	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 04/02/2004	:	
Attorney Docket Number:	:	
20443-0005001	:	

This is a decision on the petition filed on March 5, 2012, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred thirty-four (1334) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred thirty-four (1334) days is **DISMISSED**.

Patentees filed, *inter alia*, Requests for Continued Examination ("RCE"), on July 28, 2009 and November 24, 2010. This Office mailed a Notice of Allowance and Issue Fee Due on August 8, 2011. Patentees request an additional one hundred forty-nine (149) days of patent term adjustment in the period beginning on the date that the Notice of Allowance and Issue Fee Due was mailed, and ending on the date the patent issued, January 3, 2012. Patentees aver that with the mailing of the Notice of Allowance on August 8, 2011, the Office closed examination on the present application on that date, and no continued examination took place in the 149-day period from the mailing date of the Notice of Allowance and Issue Fee Due, to the issuance of the patent. Accordingly, Patentees assert that 149 days of B Delay should have been included in the period of delay accorded the Director, and that the Patent Term Adjustment should be calculated as 1334 days, instead of 1201 days<sup>1</sup>.

<sup>1</sup> Applicant notes an adjustment of two (2) days indicated in the PAIR/PALM was entered on February 28, 2012, and a decision noting this adjustment was mailed on March 5, 2012 (the same date the present petition was filed). Applicant also notes – assuming an adjustment of 149 days – an overlap of 16 days. Accordingly, the difference in the period of adjustment between applicant's request of 1334 days, and the Office calculation of 1201 days, is 133 days (149 days – 16 days).



Counting the period of time excluded from the “B delay” for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee’s argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not “any time consumed by continued examination requested by the applicant under section 132(b)” within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) (“only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the ‘plain meaning’ of the statutory language”). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) (“Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning”). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, “Subject to the limitations of paragraph (2),” means that the limitations of paragraph 2 apply to this paragraph’s adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) “B delay” cannot accrue for days of “A delay” that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued “B delay,” will be reduced for applicant delay.

Second, “if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States,” meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office’s failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for “B delay.”



Third, “not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include “any time consumed by” or “any delay in processing,” as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for “A delay” (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including “any time consumed by” means not including any days used to prosecute the application as specified in clauses (i)-(ii)<sup>2</sup>. Clause (i) specifies “any time consumed by continued examination of the application requested by the applicant under section 132(b).” Clause (ii) specifies “any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court.” “Time” in the context of this legislation throughout refers to days. “Consumed by” means used by or used in the course of. *Websters Collegiate Dictionary*, (11<sup>th</sup> ed.). The “any” signifies that the days consumed by are “any” of the days in the pendency of the application, and not just days that occur after the application has been pending for 3-years. As such, “any time consumed by” refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an

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<sup>2</sup> Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.



adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the issuance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.



As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures<sup>3</sup> permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on April 3, 2007, and ends on July 27, 2009, the day before the RCE, filed July 28, 2009, was filed,

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<sup>3</sup> Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.



and is 847 days. See, 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 1201 days, not 1334 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods  
Attorney  
Office of Petitions





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,961	04/06/2004	Rafael Vazquez-Martinez	03495-0174-03000	3399
22852 7590 02/15/2011 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER CHEN, SHIN LIN	
			ART UNIT 1632	PAPER NUMBER
			MAIL DATE 02/15/2011	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.





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February 15, 2011

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
LLP  
901 NEW YORK AVENUE, NW  
WASHINGTON DC 20001-4413

In re Application of :  
Rafael Vazquez-Martinez et al. : **DECISION ON PETITION**  
Application No. 10817961 :  
Filed: 4/6/2004 :  
Attorney Docket No. 03495-0174-03000 :

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R. 1.84(a)(2), received in the United States Patent and Trademark Office (USPTO) February 7, 2011.

The petition is **DISMISSED**.

A grantable petition under 37 C.F.R. 1.84(a)(2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFS filings), and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

*"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."*

The petition did not meet the following requirement(s). 1 ☐ 2 ☐ 3 ☒

***A renewed petition filed under 37 C.F.R. 1.84(a)(2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.***

Telephone inquiries relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Don Fairchild/  
Office of Data Management  
Publications Branch





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EDWARDS ANGELL PALMER & DODGE LLP  
P.O. BOX 55874  
BOSTON, MA 02205

**MAILED**

**SEP 09 2010**

**OFFICE OF PETITIONS**

In re Application of  
Steven R. Brant, et al.  
Application No.: 10/818,037  
Filed: April 5, 2004  
Attorney Docket No.: 61095(71699)

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:  
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:

**ON PETITION**

This is a decision in response to the petition, filed June 22, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

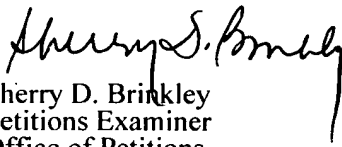
The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Jonathan M. Sparks appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned on June 2, 2010 as a result of petitioner's failure to file a complete and proper response to the Notice of Appeal of November 2, 2009. On June 22, 2010, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of \$405 and the submission required by 37 CFR 1.114; (2) the petition fee of \$810; and (3) an adequate statement of unintentional delay<sup>1</sup>.

This application is being referred to Technology Center AU 1634 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

  
Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions

<sup>1</sup> 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.





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DOWNS RACHLIN MARTIN PLLC  
199 MAIN STREET  
P O BOX 190  
BURLINGTON VT 05402-0190

**MAILED**

**SEP 20 2010**

In re Application of	:	<b>OFFICE OF PETITIONS</b>
Coyle, et al.	:	
Application No. 10/818,058	:	ON APPLICATION FOR
Filed: April 5, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 09888-002USU1	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed April 28, 2010. Applicants submit that the patent term adjustment to be indicated on the patent is one thousand four hundred eighty-seven (1487) days or one thousand four hundred five (1405) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

In addition, applicants assert the Office failed to enter a period of reduction of 765 days or 683 days for Office delay in mailing at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed.

To the extent that applicants request reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of



issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee<sup>1</sup>.

To the extent that applicants otherwise request correction of the initial determination of patent term adjustment (PTA), the application for patent term adjustment is **GRANTED**.

The Office has updated the PALM screen by entering an additional adjustment of 765 days. The correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is seven hundred two (702) days. A copy of the

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<sup>1</sup> For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the 37 CFR 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



updated PALM screen, showing the correct determination, is enclosed.

On April 6, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 0 days. On April 28, 2010, applicants submitted the instant request for reconsideration of patent term.

Applicants assert the Office failed to enter a period of reduction of 765 days or 683 days for Office delay in mailing at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed.

The correct length of adjustment hinges on the Office's determination of what constitutes a notification under 35 U.S.C. 132. The application was filed under 35 U.S.C. 111(a) on April 5, 2004. On January 12, 2005, the Office mailed a non-final Office action. Unfortunately, the January 12, 2005 Office action discussed a wrong set of claims. Apparently a practitioner not affiliated with the attorneys of record filed an amendment intended for another application, but erroneously identified the above-identified application. As a result, applicants received an Office action discussing claims that were in no way connected to the above-identified application. The January 12, 2005 Office action was not a proper notification under 35 U.S.C. 132.

The Office finds the Examiner Interview Summary, mailed on April 26, 2005 is not a notification under 35 U.S.C. 132. On July 10, 2007, the Office mailed a first notification under 35 U.S.C. 132 discussing the claims in the application. This was fourteen months and 765 days after the filing of the application. Accordingly, a period of adjustment of 765 days will be entered for Office delay pursuant to 37 CFR 1.702(a)(1).

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **seven hundred two (702) days** (765 days of Office delay - 63 days of applicant delay).

The Office acknowledges receipt of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

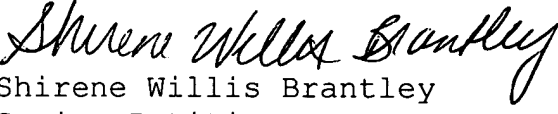
Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the



Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

  
Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of REVISED PAIR screen



10/818,058	<b>METHODS AND INK COMPOSITIONS FOR INVISIBLY PRINTED SECURITY 09-17- IMAGES HAVING MULTIPLE AUTHENTICATION FEATURES</b>	2010::07:40:53
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**Patent Term Adjustments**

Patent Term Adjustment (PTA) for Application Number: 10/818,058

Filing or 371(c) Date:	04-05-2004	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	0
A Delays:	0	PTO Manual Adjustments:	765
B Delays:	0	Applicant Delays:	63
C Delays:	0	Total PTA Adjustments:	702

**Patent Term Adjustment History      Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
106	09-17-2010	Adjustment of PTA Calculation by PTO	765		0
96	04-06-2010	Mail Notice of Allowance			0
95	03-30-2010	Allowed Case Returned to the Examiner for Clerical Processing			0
94	03-30-2010	Document Verification			0
93	03-29-2010	Notice of Allowance Data Verification Completed			0
92	03-29-2010	Notice of Allowability			0
91	03-02-2010	Date Forwarded to Examiner			0
90	02-26-2010	Amendment After Brief			0
89	02-03-2010	Exam. Ans. Review Complete			0
88	01-25-2010	Electronic Review			0
87	01-25-2010	Email Notification			0
85	01-19-2010	Examiner's Answer to Appeal Brief			0
84	11-10-2009	Appeal Brief Review Complete			0
83	11-10-2009	Date Forwarded to Examiner			0
82	10-13-2009	Appeal Brief Filed			0
81	08-11-2009	Notice of Appeal Filed			0
80	07-29-2009	Email Notification			0
79	07-29-2009	Mail Advisory Action (PTOL - 303)			0



78	07-27-2009	Advisory Action (PTOL-303)		0
77	07-15-2009	Date Forwarded to Examiner		0
76	07-10-2009	Amendment after Final Rejection		0
75	05-12-2009	Mail Final Rejection (PTOL - 326)		0
74	05-11-2009	Final Rejection		0
73	03-25-2009	Date Forwarded to Examiner		0
72	03-16-2009	Response after Non-Final Action	30	70
71	03-16-2009	Request for Extension of Time - Granted		0
70	11-14-2008	Mail Non-Final Rejection		0
69	11-14-2008	Non-Final Rejection		0
68	09-24-2008	Date Forwarded to Examiner		0
67	08-11-2008	Response after Non-Final Action	33	65
66	08-11-2008	Request for Extension of Time - Granted		0
65	04-09-2008	Mail Non-Final Rejection		0
64	04-08-2008	Non-Final Rejection		0
60	03-21-2008	Date Forwarded to Examiner		0
59	02-11-2008	Response to Election / Restriction Filed		0
58	01-09-2008	Mail Restriction Requirement		0
57	01-07-2008	Requirement for Restriction / Election		0
56	10-16-2007	Information Disclosure Statement considered		0
55	07-27-2007	Information Disclosure Statement considered		0
54	01-26-2007	Information Disclosure Statement considered		0
53	10-16-2007	Reference capture on IDS		0
52	10-16-2007	Information Disclosure Statement (IDS) Filed	0	50
51	10-18-2007	Date Forwarded to Examiner		0



50	10-16-2007	Response to Election / Restriction Filed	0
49	10-16-2007	Information Disclosure Statement (IDS) Filed	0
48	09-26-2007	Mail Supplemental Restriction / Election Requirement	0
47	09-21-2007	Supplemental Restriction	0
46	07-27-2007	Reference capture on IDS	0
45	07-22-2004	Corrected filing receipt	0
44	07-27-2007	Information Disclosure Statement (IDS) Filed	0
43	07-10-2007	Mail Restriction Requirement	0
42	06-29-2007	Requirement for Restriction / Election	0
41	06-14-2007	Case Docketed to Examiner in GAU	0
40	03-12-2007	Case Docketed to Examiner in GAU	0
39	02-28-2007	Case Docketed to Examiner in GAU	0
38.7	01-26-2007	Electronic Information Disclosure Statement	0
38	01-26-2007	Information Disclosure Statement (IDS) Filed	0
37	04-10-2006	Case Docketed to Examiner in GAU	0
36	03-21-2006	Preliminary Amendment	0
35	03-07-2006	Case Docketed to Examiner in GAU	0
34	12-27-2005	Case Docketed to Examiner in GAU	0
33	08-19-2005	Case Docketed to Examiner in GAU	0
32	08-19-2005	Subtract FAOM Count	0
31	04-26-2005	Mail Notice of Withdrawn Action	0
30	04-26-2005	Letter Withdrawing / Vacating Office Action	0
29	04-26-2005	Mail Miscellaneous Communication to Applicant	0
28	04-21-2005	Miscellaneous Communication to Applicant - No Action Count	0
27	04-18-	Examiner Interview Summary Record (PTOL - 413)	0



	2005		
26	01-12-2005	Mail Non-Final Rejection	0
25	01-10-2005	Non-Final Rejection	0
24	09-07-2004	IFW TSS Processing by Tech Center Complete	0
23	09-07-2004	Case Docketed to Examiner in GAU	0
22.7	07-22-2004	Information Disclosure Statement (IDS) Filed	0
22	07-22-2004	Information Disclosure Statement (IDS) Filed	0
21	05-20-2004	Preliminary Amendment	0
20	04-05-2004	Reference capture on IDS	0
19.7	04-05-2004	Information Disclosure Statement (IDS) Filed	0
19	04-05-2004	Information Disclosure Statement (IDS) Filed	0
18	08-16-2004	Application Return from OIPE	0
17	08-16-2004	Application Is Now Complete	0
16	08-16-2004	Application Return TO OIPE	0
15	08-16-2004	Application Return from OIPE	0
14	08-16-2004	Application Return TO OIPE	0
13	08-16-2004	Application Dispatched from OIPE	0
12	08-16-2004	Application Is Now Complete	0
11	07-22-2004	Additional Application Filing Fees	0
10	04-05-2004	Claim Preliminary Amendment	0
9	07-22-2004	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
8	06-23-2004	Notice Mailed--Application Incomplete--Filing Date Assigned	0
5	05-20-2004	Cleared by L&R (LARS)	0
4	05-06-2004	Referred to Level 2 (LARS) by OIPE CSR	0
3	05-06-2004	CASE CLASSIFIED BY OIPE	0



2	04-17-2004	IFW Scan & PACR Auto Security Review	0
1	04-05-2004	Initial Exam Team nn	0

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**Close Window**





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Sawyer Law Group, P.C.  
P.O. Box 51418  
Palo Alto, CA 94303

**MAILED**

**JAN 18 2011**

**OFFICE OF PETITIONS**

In re Application of  
Tibet Mimar  
Application No. 10/819,059  
Filed: April 5, 2004  
Attorney Docket No. 4367P

DECISION ON PETITION  
TO WITHDRAW  
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 4, 2011.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to Sawyer Law Group, P.C., has been revoked by the applicant of the patent application on January 4, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet  
Petitions Examiner  
Office of Petitions

cc: Tibet Mimar  
385 Via Loma  
Morgan Hill, CA 95037





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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER  
LLP  
901 NEW YORK AVENUE, NW  
WASHINGTON DC 20001-4413

MAILED

NOV 09 2010

OFFICE OF PETITIONS

In re Application of  
Toshiya Kotani, et al.  
Application No. 10/819,338  
Filed: April 7, 2004  
Attorney Docket No. 04329.3215

:  
:  
: DECISION GRANTING PETITION  
: UNDER 37 CFR 1.313(c)(2)  
:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 8, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

*Petitioner is advised that the issue fee paid on October 28, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.<sup>1</sup>*

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2825 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/  
Terri Johnson  
Petitions Examiner  
Office of Petitions

<sup>1</sup> The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.





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Patent No. : **7590521**  
Ser. No. : **10/819463**  
Inventor(s) : **MA, KENNETH KAI-BAUN**  
Issued : **09/15/2009**  
Title : **METHOD AND SYSTEM FOR PROBE OPTIMIZATION WHILE  
INSTRUMENTING A PROGRAM**  
Docket No. : **50037.230US01)**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

In regards to the alleged error(s) in the Claims, Column 7, line 64 is printed in accordance with the Claims filed on 4-20-09 by the applicant/attorney.

In view of the foregoing, your request, in this matter, is hereby denied.

A request for Reconsideration accompanied by the \$100 fee can be filed to correct this error.

A Certificate of Correction will be issued for the remaining errors.

Omega Lewis  
For Mary Diggs  
Decisions & Certificates  
Of Correction Branch  
(703)756-1575 or (703) 756-1814

CPA GLOBAL  
P.O. BOX 52050  
MINNEAPOLIS, MN 55402

OL



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7207568	2007-04-24	10819553	2004-04-07	

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

	Fee	Code
<input checked="" type="radio"/>	3 ½ year	(1551)
<input type="radio"/>	7 ½ year	(1552)
<input type="radio"/>	11 ½ year	(1553)

### Small Entity

	Fee	Code
<input type="radio"/>	3 ½ year	(2551)
<input type="radio"/>	7 ½ year	(2552)
<input type="radio"/>	11 ½ year	(2553)

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☒ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Karen B. Leetzow/		Date (YYYY-MM-DD) 2011-09-26
Name	Karen B. Leetzow		
Enter Reel and Frame Number		Remove	
Reel Number	015200	Frame Number	0457
Click ADD for additional Reel Number and Frame Number		Add	
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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In re Patent No.	7207568	:
Issue Date:	April 24, 2007	:
Application No.	10819553	:DECISION GRANTING PETITION
Filed:	April 7, 2004	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	NASCAR-006	:

This is a decision on the electronic petition, filed September 26, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 26, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Paper No.:** \_\_\_\_\_

**DATE** : October 11, 2011

**TO SPE OF** : ART UNIT 2611 SPE

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 10/819,625 Patent No.: 7,697,643 B2

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**  
**Randolph Square Building**  
**2800 South Randolph Street**  
**Arlington, VA 22206**

Should Item (63) be inserted displaying additional related applications information as requested by applicant?  
See COCIN dated 9-21-2011

***Antonio Johnson***

\_\_\_\_\_  
**Certificates of Correction Branch**  
**(571)272-0483 Fax – (571)270-9846**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

**Specify below which changes do not apply.**

☐ **Denied**

**State the reasons for denial below.**

**Comments:** COCIN filed on 09/21/2011 is approved.

\_\_\_\_\_

\_\_\_\_\_  
**SPE** Shuwang Liu **Art Unit** 2611





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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.  
1940 DUKE STREET  
ALEXANDRIA VA 22314

**MAILED**

JUL 01 2011

**OFFICE OF PETITIONS**

In re Patent No. 7,297,305  
 Issued: November 20, 2007  
 Application No. 10/819,945  
 Filed: April 8, 2004  
 Attorney Docket No. : 245016US

## NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent no longer qualifies for small entity status. Accordingly, any future fees paid in this patent must be paid at the large entity rate.

The present communication is not signed by a registered patent practitioner of record. However, in accordance with 37 CFR 1.34(a), the signature of Kendal M. Sheets appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. While a courtesy copy of this communication is being mailed, the appropriate power of attorney or authorization of agent must be submitted if Mr. Sheets desires to receive future correspondence regarding this patent.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley  
Petitions Examiner  
Office of Petitions

cc: KENDAL M. SHEETS  
CPA GLOBAL  
2318 MILL ROAD, SUITE 12 FLOOR  
ALEXANDRIA, VA 22314





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EDWARDS ANGELL PALMER & DODGE LLP  
P.O. BOX 55874  
BOSTON MA 02205

**MAILED**

**MAY 09 2011**

**OFFICE OF PETITIONS**

In re Application of	:	
McEwen	:	
Application No. 10/820,099	:	ON PETITION
Filed: April 7, 2004	:	
Attorney Docket No. 61190(50221)	:	

This is a decision on the petition, filed February 11, 2011, which is being treated as a request under 37 CFR 3.81(b)<sup>1</sup> to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is McEwen Laboratories, LTD. and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to McEwen Laboratories, LTD.

37 CFR 3.81(b), effective June 25, 2004, reads:

*After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The instant request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

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<sup>1</sup> See MPEP 1309, subsection II and Official Gazette of June 22, 2004



A review of Office database assignment records reflects that an assignment to McEwen Laboratories, LTD. has been recorded. Therefore, upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that McEwen Laboratories, LTD. was the assignee of record at the time of issuance of the application into a patent. *Note also 35 U.S.C. § 152.*

Any request for reconsideration must include the certificate of correction and certificate of correction fee of \$100.00.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

*/ALESIA M. BROWN/*

Alesia M. Brown  
Attorney Advisor  
Office of Petitions





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P.O. BOX 55874  
BOSTON MA 02205

**MAILED**

**JUN 15 2011**

**OFFICE OF PETITIONS**

**ON PETITION**

In re Application of :  
McEwen :  
Application No. 10/820,099 :  
Filed: April 7, 2004 :  
Attorney Docket No. 61190(50221) :

This is a decision on the renewed request, filed June 9, 2011, which is being treated as a request under 37 CFR 3.81(b)<sup>1</sup> to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

*/ALESIA M. BROWN/*

Alesia M. Brown  
Attorney Advisor  
Office of Petitions

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<sup>1</sup> See MPEP 1309, subsection II and Official Gazette of June 22, 2004





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,397	04/08/2004	Jerome B. Zeldis	CELG-0422	8455
23377 7590 10/15/2010 WOODCOCK WASHBURN LLP CIRA CENTRE, 12TH FLOOR 2929 ARCH STREET PHILADELPHIA, PA 19104-2891			EXAMINER SUTTON, DARRYL C	
			ART UNIT 1612	PAPER NUMBER
			NOTIFICATION DATE 10/15/2010	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

eofficemonitor@woodcock.com





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WOODCOCK WASHBURN LLP  
CIRA CENTRE, 12TH FLOOR  
2929 ARCH STREET  
PHILADELPHIA PA 19104-2891

OCT 15 2010

In re Application of:  
Zeldis et al.  
Serial No.: 10/820,397  
Filed: April 8, 2004  
Attorney Docket No.: **CELG-0422**

:  
:  
: PETITION DECISION  
:  
:


This is in response to the petition under 37 CFR § 1.59(b), filed October 4, 2010, to expunge information from the above identified application. This application is abandoned.

Petitioner requests that documents submitted as items 1-10 in the Information Disclosure Statement filed February 13, 2008 and the non-redacted version of item 504 filed November 6, 2006 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for the documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

  
Marianne C. Seidel  
Quality Assurance Specialist  
Technology Center 1600





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MUNCK CARTER/NSC  
P.O. DRAWER 800889  
DALLAS TX 75380

**MAILED**  
SEP 09 2010  
OFFICE OF PETITIONS

In re Application of :  
Aslan et al. :  
Application No. 10/820,535 : **DECISION ON PETITION**  
Filed: April 8, 2004 :  
Attorney Docket No. P05611 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before January 19, 2010, as required by the Notice of Allowance and Fee(s) Due mailed October 19, 2009. Accordingly, the date of abandonment of this application is January 20, 2010. A Notice of Abandonment was mailed February 2, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the \$1,510.00 issue fee, (2) the petition fee of \$1,620.00; and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent and review of the Amendment under 37 C.F.R. § 1.312 filed with the instant petition.

*Joan Olszewski*  
Joan Olszewski  
Petitions Examiner  
Office of Petitions





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BUTZEL LONG  
IP DOCKETING DEPT  
350 SOUTH MAIN STREET  
SUITE 300  
ANN ARBOR MI 48104

**MAILED**

DEC 07 2010

**OFFICE OF PETITIONS**

In re Application of	:	
Hentges et al.	:	
Application No. 10/820,624	:	DECISION ON PETITION
Filed: April 8, 2004	:	
Attorney Docket No. 026032-4708	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 27, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, July 17, 2007, which set a shortened statutory period for reply of three (3) months. A two-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, the application became abandoned on December 18, 2007. A Notice of Abandonment was mailed March 4, 2008.

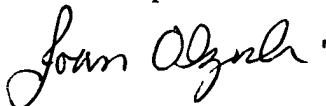
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of \$1,620.00; and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.



Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center AU 3636 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

A handwritten signature in cursive script, reading "Joan Olszewski".

Joan Olszewski  
Petitions Examiner  
Office of Petitions





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OBLON, SPIVAK, MCCLELLAND  
MAIER & NEUSTADT, L.L.P.  
1940 DUKE STREET  
ALEXANDRIA VA 22314

**MAILED**

**AUG 26 2011**

**OFFICE OF PETITIONS**

In re Application of	:
Okuda et al.	:
Patent Number: 7,429,642	: DECISION ON
Issue Date: 09/30/2008	: REQUEST FOR RECONSIDERATION
Application No. 10/820714	: OF PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 04/09/2004	: and
Attorney Docket Number: 251697US0	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 26, 2008, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred nine (709) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred nine (709) days is **GRANTED to the extent indicated herein**.

A review of the application history confirms that this Office errantly failed to assess a reduction of 92 days in accordance with 37 CFR 1.704(b) in connection with the filing of a reply to an Ex Parte Quayle Action, mailed February 1, 2007. Applicants filed a reply on April 2, 2007; however, the reply failed to place the application in condition for allowance. Applicants filed a reply that placed the application in condition for allowance on August 1, 2007, three months and 92 days after the mailing of the Ex Parte Quayle Action, on August 1, 2007. The reduction commenced on the day after the date that is three months after the date of mailing of the Ex Parte Quayle Action on May 2, 2007, and ending on the date the reply that placed the application in condition for allowance was filed, August 1, 2007. A reduction of 92 days is properly attributed to Applicants pursuant to 37 CFR 1.704(b).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.



The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by six hundred seventeen (617) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods  
Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,429,642 B2

DATED : September 30, 2008

INVENTOR(S) : Okuda et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 526 days.

Delete the phrase "by 526 days" and insert – by 617 days--



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

DATE : 3/4/10

Paper No.: \_\_\_\_\_

TO SPE OF : ART UNIT 1794

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/820899 Patent No.: 7615245 B2

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**  
**Randolph Square – 9D10-A**  
**Palm Location 7580**

*Virginia Tolbert*

Certificates of Correction Branch

571-272-0460

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

**Comments:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
/Leslie Wong/

\_\_\_\_\_  
1/20/2011





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**K&L GATES LLP  
210 SIXTH AVENUE  
PITTSBURGH PA 15222-2613**

**MAILED**

**DEC 22 2010**

**OFFICE OF PETITIONS**

In re Application of  
Bailey et al.  
Application No. 10/820,972  
Filed: April 8, 2004  
Attorney Docket No. 030621

:  
:  
: **DECISION ON PETITION**  
**TO WITHDRAW FROM RECORD**  
:  
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 3, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

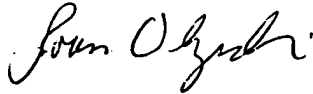
The request was signed by Daniel R. Miller on behalf of himself. Accordingly, Daniel R. Miller associated with the above-identified application has been withdrawn as attorney of record in the above-identified application.

The correspondence address of record remains unchanged.

Currently, a Board of Patent Appeals and Interferences Docketing Notice was mailed March 24, 2010 in the above-identified application.



Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

A handwritten signature in black ink, appearing to read "Joan Olszewski". The signature is fluid and cursive, with a large initial "J" and "O".

Joan Olszewski  
Petitions Examiner  
Office of Petitions





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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP  
1279 OAKMEAD PARKWAY  
SUNNYVALE, CA 94085-4040

**MAILED**

**AUG 23 2010**

In re Application of	:	OFFICE OF PETITIONS
James T. Mihm et al	:	
Application No. 10/821,037	:	ON PETITION
Filed: April 7, 2004	:	
Attorney Docket No. 42P19143	:	

This is a decision on the petition filed August 4, 2010 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the Issue fee and Publication Fee in a timely manner in reply to the Notice of Allowance mailed September 15, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 16, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue fee and Publication Fee; (2) the petition fee; (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210. This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle  
Petitions Examiner  
Office of Petitions

cc: Joni D. Stutman  
Intel Corporation c/o CPA Global  
P.O. Box 52050  
Minneapolis, MN 55402





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Paper No.

The Law Office of Imre Balogh  
276 Smith School Road  
Perkasie PA 18944

**MAILED**

**JUN 20 2011**

**OFFICE OF PETITIONS**

In re Application of :  
Tibor Sipos, Simantini Das. : ON PETITION  
and Terese Wignot :  
Application No. 10/821,155 :  
Filed: April 8, 2004 :  
Attorney Docket No.TS-008(CIP):

This is in response to the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed May 18, 2011.

As drafted the instant petition seeks action solely on behalf of inventor Sipos. However, there are three inventors of record, Tibor Sipos, Simantini Das and Terese Wignot.

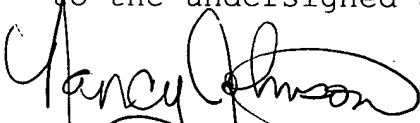
Further, concurrently filed with the petition is the power of attorney signed by Dr. Sipos, as the assignee. An assignment is of record in this application. However, for an assignee to take action in an application, a 3.73(b) statement must be filed. See MPEP 324. This is noted, in the denial of request for power of attorney, mailed May 24, 2011.

Accordingly, the petition is dismissed without consideration on the merits pending the filing of a 3.73(b) statement or the filing of a power of attorney signed by all of the inventors.

A courtesy copy of this petition is being sent to the address set forth on the petition. However, all further correspondence will be mailed solely to the correspondence address of record until the deficiencies in the power of attorney and change of correspondence address are corrected.



Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with the first name "Nancy" written in a larger, more prominent script than the last name "Johnson".

Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

cc: Saul Ewing LLP (Baltimore)  
ATTN: PATENT DOCKET CLERK  
PENN NATIONAL INSURANCE PLAZA  
2 NORTH SECOND STREET, 7<sup>th</sup> FLOOR  
HARRISBURG, PA 17101





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Paper No.

Saul Ewing LLP (Baltimore)  
Attn: Patent Docket Clerk  
Centre Square West  
1500 Market Street, 38th Floor  
Philadelphia PA 19102

**MAILED**  
**JUL 28 2011**  
**OFFICE OF PETITIONS**

In re Application of	:	
Sipos et al.	:	DECISION ON
Application No. 10/821,155	:	PETITION
Filed: April 8, 2004	:	and
Attorney Docket No. 359387.00003	:	<b>NOTICE OF DEFECT IN</b>
	:	<b>POWER OF ATTORNEY</b>

This is a decision on the renewed PETITION TO REVIVE ABANDONED APPLICATION UNDER THE PROVISIONS OF 37 C.F.R. §1.137(B) and copy of PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), both filed June 24, 2011.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to file a reply to the final Office action mailed April 19, 2007. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. No reply received and no extension of time obtained the application became abandoned effective July 20, 2007. A courtesy Notice of Abandonment was mailed on November 15, 2007.

By decision mailed June 20, 2011, the initial petition filed May 18, 2011 was dismissed without consideration on the merits as it was not shown to be filed by a proper party (all inventors, registered practitioner on behalf of all inventors or assignee, or the assignee).

On renewed petition, petitioner submitted a statement under 3.73(b) establishing the assignee's right to take action in this



application; resubmitted the required reply, a Request for Continued Examination (RCE) and submission under \$1.114 (in the form of an amendment) (and RCE fee); paid the petition fee; and made the required statement of unintentional delay. In addition, the petition includes a statement of the facts relied on to conclude that the delay was unintentional.

It appears that the attorney signing the statement of unintentional delay was appointed after the abandonment of the application. Thus, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Further, the instant application has been abandoned for an extended period of time. The Office is relying on petitioner's duty of good faith and candor in accepting the assertion that the entire delay in filing the required reply was unintentional. See 37 CFR 10.18.

**It is also noted that the power of attorney filed June 24, 2011 was entered despite being signed solely by inventor Sipos on behalf of Digestive Care, Inc. Although it is established that Digestive Care, Inc. is the assignee, it is not established by the 3.73(b) statement, which states that attorney Julian-Arnold has authority to act on behalf of the assignee or by the power of attorney itself which does not provide the title of inventor Sipos, that inventor Sipos has the authority to file a power of attorney on behalf of the assignee. Petitioner should cure this defect by making of record a proper power of attorney signed by inventor Sipos with his title noted (if his title is one such as CEO which gives him presumptive authority) or with a statement under 3.73(b) that inventor Sipos has the authority to act on behalf of the assignee.**



Technology Center AU 1651 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on petition filed June 24, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with the first name "Nancy" and last name "Johnson" clearly distinguishable.

Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions





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100 NORTH BROADWAY 17TH FLOOR ST  
LOUIS MO 63102

**MAILED**

**MAY 24 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,849,534  
Issued: September 14, 2010  
Application No. 10/821,334  
Filed: April 9, 2004  
Attorney Docket No. ARP 5588.1

:  
: DECISION ON REQUEST FOR  
: RECONSIDERATION OF  
: PATENT TERM ADJUSTMENT  
:

This is a decision on the  $\Delta$ Petition for Request for Reconsideration of Patent Term Adjustment Determination $\oplus$  filed February 14, 2011 and treated under 37 CFR 1.705(d).

The request for review of the patent term adjustment is **DISMISSED**.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer**, from the mail date of this decision to respond. No extensions of time will be granted under  $\cdot$  1.136.

The patent term adjustment indicated in the patent is properly reflected.

A review of the record reveals that there were two periods of Appellate Review. However, Patentee fails to account for the filing of a second Notice of Appeal on May 8, 2006. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In addition to the first Notice of Appeal filed June 27, 2005, which accounts for a period of 228 days, the 1447 days of the over three year period consumed by appellate review, beginning on May 8, 2006 and ending on April 23, 2010 are not included in the B delay. See 35 U.S.C.  $\cdot$  154(b)(1)(B)(ii). Thus, B delay is 0 days (1345 - 228 + 1447). As such, the patent term adjustment is 1445 (0  $\Delta$ A delay $\oplus$  days + 0  $\Delta$ B delay $\oplus$  days + 1447  $\Delta$ C delay $\oplus$  days - 2 Applicant delay days) days, not 1679 days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

/Patricia Faison-Ball/

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions





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COOLEY LLP  
ATTN: Patent Group  
Suite 1100  
777 - 6th Street, NW  
Washington DC 20001

**MAILED**  
**SEP 24 2010**  
**OFFICE OF PETITIONS**

In re Application of :  
Paschini, et al. :  
Application No. 10/821,405 :  
Filed: April 9, 2004 :  
Attorney Docket No. EWIR-001/02US 300933- :  
2005 :

ON PETITION

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 24, 2010 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application set forth in the amendment filed concurrently with the instant petition.

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

It is noted that the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) to the prior filed non-provisional application is embedded in the "Petition under 37 C.F.R. § 1.78(a)(3). Because the amendment is not contained on a paper separate from the petition, the amendment does not comply with 37 CFR §§ 1.4 and 1.121 that provide, in pertinent part,

**§ 1.4 Nature of correspondence and signature requirements**

(c) Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry, or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

**§ 1.121 Manner of making amendments in applications**

(a) *Amendments in applications, other than reissue applications.* Amendments in applications, other than reissue applications, are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made.



Based on the aforementioned, the amendment containing the required references to the prior filed applications is not acceptable and, therefore, neither the amendment nor the references to the prior-filed applications contained therein can be entered. The petition under 37 CFR 1.78(a)(3) must be dismissed because petitioner has failed to include the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(a)(2)(i) to the prior filed non-provisional application.


Petitioner may file a renewed petition under 37 CFR 1.78(a)(3) along with an amendment, contained on a paper separate from the petition, requesting amendment of the priority claim to include the reference to the prior-filed non-provisional application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents  
United States Patent and Trademark Office  
Box 1450  
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300  
Attn: Office of Petitions

Telephone inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

  
Chris Bottorff  
Supervisor  
Office of Petitions





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United States Patent and Trademark Office  
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Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Wooten & Shaddock, PLC / Alliant Techsystems Inc.  
1435 Crossways Boulevard  
Suite 303  
Chesapeake, VA 23320

MAILED

JUL 21 2011

OFFICE OF PETITIONS

In re Patent No. 7,311,231 :  
Issue Date: December 25, 2007 :  
Application No. 10/821,574 :  
Filed: April 9, 2004 :  
Patentee(s): Michael M. Noell, et. al. :

NOTICE

This is a Notice regarding your "CORRECTION OF ERROR IN SMALL ENTITY STATUS UNDER 37 CFR 1.28(C)," filed on June 29, 2011, requesting acceptance of a fee deficiency submission under 37 CFR 1.28(c).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee(s) submitted must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith  
Petitions Examiner  
Office of Petitions





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MORRISON & FOERSTER LLP  
12531 HIGH BLUFF DRIVE, SUITE 100  
SAN DIEGO, CA 92130-2040

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of

Terrance P. SNUTCH, et al.

Application No. 10/821,584

Filed: April 9, 2004

Attorney Docket No. 381092000623

DECISION ON PETITION TO  
WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 3, 2010.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address.

Petitioner has not properly submitted correspondence forwarding address information for the application.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71, or if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71 (c) states:

**An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73 (b) that is signed by a party who is authorized to act on behalf of the assignee.**

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a change of correspondence address containing a proper 3.73(b) statement has been submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272- 7253.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center at (571) 272-1600.

/Monica A. Graves/  
Petitions Examiner, Office of Petitions





UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
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www.uspto.gov

Paper No.

ELMORE PATENT LAW GROUP, PC  
515 Groton Road  
Unit 1R  
Westford MA 01886

**MAILED**

**SEP 07 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,550,283 :  
Holland et al. :  
Application No. 10/821,640 : LETTER REGARDING  
Issue Date: June 23, 2009 : PATENT TERM ADJUSTMENT  
Filed: April 9, 2004 :  
Atty Docket No. 4010.3002 US1 :

This decision is in response to the "REQUEST FOR RECONSIDERATION," filed May 25, 2010. Patentee requests that the patent term adjustment be corrected from one thousand and sixty-seven (1067) days to one thousand and ninety-seven (1097) days.

The request for reconsideration of the patent term adjustment is **DISMISSED**.

On February 9, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 325 days.

On June 23, 2009, Patentee filed a submission which was treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, two hundred and thirty-four (1234) days. The June 23, 2009 submission was granted via the mailing of a decision on May 17, 2010, to the extent that it indicated that the above-identified patent is extended or adjusted by one thousand and sixty-seven (1067) days.

The decision further indicated, *in pertinent part*:




"With respect to the delay associated with the failure of the Office to issue the patent within 3 years, the patent issued 3 years and 806 days after its filing date. However, it is noted that the time consumed by the appellate review is excluded from the period of B-delay. See 35 U.S.C. § 154(b)(1)(B)(ii). Therefore, the 32-day period beginning on January 9, 2009, the date of filing of a notice of appeal and ending on February 9, 2009, the date of mailing of a subsequent notice of allowance is excluded from the period of B-delay. Moreover, the days of "A" delay beginning on January 11, 2009 and ending on February 9, 2009 overlap with the period of B-delay. As such, considering the exclusion of 32 days and the overlap of 30 days, the period of "B" delay is 744 (806 - (32 + 30)) days and thus, the revised patent term adjustment is 1067 days. (The period of 307 days of "B" delay entered at issuance is being removed and a period of 744 days of "B" delay is entered)."

Decision mailed on May 17, 2010, page 3.

With this renewed petition, Patentee has asserted that it is "inequitable to subtract" the period from January 11, 2009 to February 9, 2009 "twice." Patentee's assertion has been considered, and it has not been deemed to be persuasive. The 32-day period from January 9, 2009 to February 9, 2009 is excluded from the period of B-delay, and the 30-day period of A-delay from January 11, 2009 to February 9, 2009 overlaps with the period of B-delay. As such, it is proper to reduce the period of B delay by both the entire excluded period and the entire period of overlap, despite the fact that 30 days of the 32-day excluded period fall on the same calendar days as the overlapping period.

Pursuant to the above discussion, the PTA remains 1067 days.

Telephone inquiries specific to this matter should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

  
Anthony Knight  
Director  
Office of Petitions





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**MAILED**

**JUL 22 2011**

**OFFICE OF PETITIONS**

Paper No.

ELMORE PATENT LAW GROUP, PC  
515 Groton Road  
Unit 1R  
Westford MA 01886

In re Patent No. 7,550,283 :  
Holland et al. :  
Application No. 10/821,640 : LETTER REGARDING  
Issue Date: June 23, 2009 : PATENT TERM ADJUSTMENT  
Filed: April 9, 2004 :  
Atty Docket No. 4010.3002 US1 :

This decision is in response to the "PETITION UNDER 37 CFR 1.181(a)(3)," filed September 15, 2010, which is being treated as a request for reconsideration of the patent term adjustment. Patentee requests that the patent term adjustment be corrected from one thousand and sixty-seven (1067) days to one thousand and ninety-seven (1097) days.

The request for reconsideration of the patent term adjustment under 37 C.F.R. § 1.705(b) is **DISMISSED**.

On February 9, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 325 days.

On June 23, 2009, Patentee filed a submission which was treated as an original petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, two hundred and thirty-four (1234) days. The June 23, 2009 submission was granted via the mailing of a decision on May 17, 2010, to the extent that it indicated that the above-identified patent is extended or adjusted by one thousand and sixty-seven (1067) days.



The decision on the original petition further indicated, *in pertinent part*:

"With respect to the delay associated with the failure of the Office to issue the patent within 3 years, the patent issued 3 years and 806 days after its filing date. However, it is noted that the time consumed by the appellate review is excluded from the period of B-delay. See 35 U.S.C. § 154(b)(1)(B)(ii). Therefore, the 32-day period beginning on January 9, 2009, the date of filing of a notice of appeal and ending on February 9, 2009, the date of mailing of a subsequent notice of allowance is excluded from the period of B-delay. Moreover, the days of "A" delay beginning on January 11, 2009 and ending on February 9, 2009 overlap with the period of B-delay. As such, considering the exclusion of 32 days and the overlap of 30 days, the period of "B" delay is 744 (806 - (32 + 30)) days and thus, the revised patent term adjustment is 1067 days. (The period of 307 days of "B" delay entered at issuance is being removed and a period of 744 days of "B" delay is entered)."

Decision mailed on May 17, 2010, page 3.

A "REQUEST FOR RECONSIDERATION" was filed on May 25, 2010, where Patentee requested that the patent term adjustment be corrected from one thousand and sixty-seven (1067) days to one thousand and ninety-seven (1097) days. Patentee asserted that it is "inequitable to subtract" the period from January 11, 2009 to February 9, 2009 "twice." The renewed petition was dismissed via the mailing of a decision on September 7, 2010, which set forth, *in pertinent part*:

Patentee's assertion has been considered, and it has not been deemed to be persuasive. The 32-day period from January 9, 2009 to February 9, 2009 is excluded from the period of B-delay, and the 30-day period of A-delay from January 11, 2009 to February 9, 2009 overlaps with the period of B-delay. As such, it is proper to reduce the period of B delay by both the entire excluded period and the entire period of overlap, despite the fact that 30 days of the 32-day excluded period fall on the same calendar days as the overlapping period.

Pursuant to the above discussion, the PTA remains 1067 days.

Decision on renewed petition, page 2.

With this second renewed petition, Patentee has requested supervisory review of the September 7, 2010 decision on the renewed petition. Patentee argues that it is improper for the Office to both exclude the 32-day period from January 9, 2009 to February 9, 2009 from the period of B-delay and to determine



that the 30-day period of A-delay from January 11, 2009 to February 9, 2009 overlaps with the period of B-delay. Upon further review of the record, the Office has determined that it was erroneous to have accorded a 30-day period of examination delay associated with the mailing of a notice of allowance on February 9, 2009, and as such, this issue is moot.

More specifically, an after-final amendment was filed on September 10, 2008, and a notice of allowance was mailed four months and 30 days later on February 9, 2009. As such, the Office accorded 30 days of examination delay, pursuant to 37 C.F.R. § 1.703(a)(2). However, it was erroneous to have accorded this 30 day-period of examination delay, since the notice of allowance was not mailed in response to the after-final amendment of September 10, 2008. A review of the record shows that an advisory action was mailed on October 17, 2008 in response to the after-final amendment of September 10, 2008. In response to said advisory action, Applicant submitted another after-final amendment on January 9, 2009. The notice of allowance was mailed in response to the January 9, 2009 amendment, not the September 10, 2008 amendment. Since the notice of allowance of February 9, 2009 was mailed within four months of the filing of the January 9, 2009 amendment, no examination delay is warranted pursuant to 37 C.F.R. § 1.703(a)(2).

It follows that the patent term adjustment totals 1067 days:

469 days of examination delay pursuant to 37 C.F.R.  
§ 1.703(a)(1)

+

774 days of B-delay (806 days over three years pursuant to 37 C.F.R. § 1.703(b) minus the 32-day excluded period between the filing of the notice of appeal on January 9, 2009 and the mailing of the notice of allowance on February 9, 2009, pursuant to 37 C.F.R. § 1.703(b)(4))

-

176 days of Applicant delay pursuant to 37 C.F.R.  
§ 1.704(b) (83 + 91 + 2).



### Conclusion

In view thereof, no adjustment to the patent term will be made. It follows that a certificate of correction is not required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. § 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. § 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3225.<sup>1</sup>

/Paul Shanoski/  
Paul Shanoski  
Senior Attorney  
Office of Petitions

---

<sup>1</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.





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SONNENSCHN NATH & ROSENTHAL LLP  
P.O. BOX 061080  
SOUTH WACKER DRIVE STATION, WILLIS TOWER  
CHICAGO IL 60606

**MAILED**

**SEP 08 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,575,917	:
Gilbertson et al.	:
Issue Date: August 18, 2009	: DECISION ON REQUEST FOR
Application No. 10/821,711	: RECONSIDERATION OF
Filed: April 8, 2004	: PATENT TERM ADJUSTMENT
Attorney Docket No. MONS:140US	: AND NOTICE OF INTENT
Title: DNA CONSTRUCTS AND	: TO ISSUE CERTIFICATE OF
METHODS TO ENHANCE THE	: CORRECTION
PRODUCTION OF COMMERCIALY	:
VIABLE TRANSGENIC PLANTS	:

This is a decision on the petition filed on May 13, 2010, which is being treated as a petition under 37 CFR 1.181 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by an additional seven hundred seventy-seven (777) days. The petition was filed within two months of the decisions by the Office mailed on April 13, 2010 and April 21, 2010.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred seventy-seven (777) days is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seven hundred seventy-seven (777) days.



Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.



Anthony Knight  
Director  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

Cc: Marshall P. Byrd  
Sonnenschein Nath & Rosenthal L.L.P.  
2000 McKinney, Suite 1900  
Dallas, Texas 75201



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,575,917 B2

DATED : August 18, 2009

**DRAFT**

INVENTOR(S) : Gilbertson et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 778 days

Delete the phrase "by 778 days" and insert – by 777 days--



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.: \_\_\_\_\_

DATE : 3/9/11

TO SPE OF : ART UNIT 3635

SUBJECT : Request for Certificate of Correction for Appl. No.: 10821752 Patent No.: 7793469

CofC mailroom date: 2/25/11

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)  
Randolph Square – 9D10-A  
Palm Location 7580**

*Lamonte Newsome*

**Certificates of Correction Branch  
571-272-3421**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:** The Duplicate language should be deleted as requested.

**Please note: The change to the dependency of claim 17 and 19-21 requested in the 312 on 2/25/11 should no be entered because the claims were renumbered by the examiner.**

/Eileen Lillis/

3635

**SPE**

**Art Unit**



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.: \_\_\_\_\_

DATE : 3/9/11

TO SPE OF : ART UNIT 3635

SUBJECT : Request for Certificate of Correction for Appl. No.: 10821752 Patent No.: 7793469

CofC mailroom date: 2/25/11

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)  
Randolph Square – 9D10-A  
Palm Location 7580**

**You can fax the Directors/SPE response to 571-270-9990**

*Lamonte Newsome*

**Certificates of Correction Branch  
571-272-3421**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:** The Duplicate language should be deleted as requested.

Please note: The change to the dependency of claim 17 and 19-21 requested in the 312 on 2/25/11 should no be entered because the claims were renumbered by the examiner.

/Eileen Lillis/

3635

**SPE**

**Art Unit**





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Wells St. John P.S.  
601 W. 1st Street #1300  
Spokane WA 99201

**MAILED**

**JUN 20 2011**

**OFFICE OF PETITIONS**

In re Patent No.7,360,750	:	
Issue Date: April 22, 2008	:	
Application No. 10/822,126	:	ON PETITION
Filed: April 9, 2004	:	
Attorney Docket No. NA20-003	:	

This is a decision on the petition filed April 8, 2011, which is being treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

Petitioner requests issuance of a certificate of correction in the name of "Hitachi High-Technologies Corporation, Tokyo, (JP)."

37 CFR 3.81(b), effective June 25, 2004, reads:

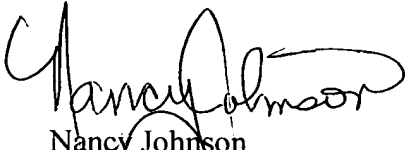
*After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment to EM PRECISION TECHNOLOGIES, LTD was recorded on April 9, 2004. However, the change of the name to MECHANO TRANSFORMER CORP was not recorded until September 23, 2009,



**after the date of issuance of this patent.** Accordingly, since the assignment in the name of MECHANO TRANSFORMER CORP was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction in the name of MECHANO TRANSFORMER CORP would not be proper.

Telephone inquiries concerning this decision on petition should be directed to the undersigned at (571) 272-3219.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions





UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
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Alexandria, VA 22313-1450  
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DINSMORE & SHOHL LLP  
FIFTH THIRD CENTER ONE SOUTH  
MAIN STREET  
SUITE 1300  
DAYTON OH 45402-2023

**MAILED**

**NOV 26 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,758,080	: DECISION ON
Vidler, et al.	: REQUEST FOR RECONSIDERATION
Application No. 10/822,386	: of PATENT TERM ADJUSTMENT
Issue Date: July 20, 2010	: and
Filed: April 12, 2004	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. STD 1222PA /	: CERTIFICATE OF CORRECTION
41213.596	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)", filed July 15, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from one thousand five hundred seven (1507) days to one thousand six hundred fifty (1650) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED**.

On July 20, 2010, the instant application matured into U.S. Patent No. 7,758,080 with a patent term adjustment of one thousand five hundred seven (1507) days. The Office determined a patent term adjustment of 1507 days based upon 509 days of Office delay pursuant to 37 CFR 1.703(a)(1), 22 days of Office delay pursuant to 37 CFR 1.703(a)(2), 680 days of Office delay pursuant to 37 CFR 1.703(e), and 366 days of Office delay pursuant to 37 CFR 1.703(b), reduced by 40, 28, and 2 days of Applicant delay pursuant to 37 CFR 1.704(c)(8).

Patentees are correct that the proper amount of days over 36 months from the filing date of the application until the issue date was not included in the "B" delay period. The over three year period began on April 13, 2007 and ended on July 20, 2010, and is 1195 days. See 35 U.S.C. 154(b)(1)(B)(i). Subtracting the 680 days the application was under appeal pursuant to 37 CFR 1.703(b)(4), and the "B" delay period is 515 days.



In view thereof, the correct number of days of patent term adjustment is 1650 days (531 days of "A" delay and 515 days of "B" delay and 680 days of "C" delay, reduced by 6 days of overlap between "A" and "B" delay and 70 days of Applicant delay).

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand six hundred fifty (1650)** days.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo, at (571) 272-3207.



Anthony Knight  
Director  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,758,080 B2

DATED : July 20, 2010

INVENTOR(S) : Vidler et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1507 days.

Delete the phrase "by 1507 days" and insert -- by 1650 days--





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,540	04/12/2004	Aron D. Rosenberg	04712/050002	1791
21559	7590	10/15/2010		
CLARK & ELBING LLP 101 FEDERAL STREET BOSTON, MA 02110			EXAMINER AZPURU, CARLOS A	
			ART UNIT	PAPER NUMBER
			1617	
			NOTIFICATION DATE	DELIVERY MODE
			10/15/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentadministrator@clarkelbing.com





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OCT 14 2010

CLARK & ELBING LLP  
101 FEDERAL STREET  
BOSTON MA 02110

In re Application of: :  
Rosenberg et al. :  
Serial No.: 10/822,540 : PETITION DECISION  
Filed: April 12, 2004 :  
Attorney Docket No.: 04712/050002 :

This is in response to the petition under 37 CFR § 1.181, filed June 21, 2010, requesting that the finality of the Office action of April 19, 2010 be withdrawn.

## BACKGROUND

On September 9, 2009, the examiner mailed a non-final Office action setting a three month statutory limit for reply. At the time of this non-final Office action, claims 1, 3, 4, 7-38, 44-80, 82 and 84-94 were pending. The examiner rejected claims 1, 3, 4, 7-37 and 84-94 and withdrew claims 38, 40, 41, 44-80 and 82 from consideration. Claims 1, 3, 4, 7-37 and 84-94 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-34, 37-41 of copending Application No. 10/298,112.

In reply to the non-final Office action of September 9, 2009, applicants filed a response on February 9, 2010. The response submitted by applicants included remarks and arguments traversing the rejections made in the non-final Office action.

On April 19, 2010, the examiner mailed a final Office action setting a three month statutory limit for reply. At the time of this final Office action, 1, 3, 4, 7-38, 44-80, 82 and 84-106 were pending. The examiner rejected claims 1, 3, 4, 7-37 and 84-106 and withdrew claims 38, 40, 41, 44-80 and 82 from consideration. Claims 1, 3, 4, 7-37 and 84-106 were rejected under 35 USC 102 (b) as being anticipated by US 2003/049329 A1 (Lee Dosuk et al.).

In response thereto, applicants filed a petition on June 21, 2010, requesting that the finality of the Office action of April 19, 2010 be withdrawn.



## DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed by applicants on June 21, 2010, applicants request withdrawal of the final Office action mailed by the examiner on April 19, 2010. Specifically, applicants argue that "The Office's general statements about Lee et al. are insufficient to provide Applicants with notice as to how Lee et al. meets each and every limitation of claims 1, 3, 4, 7-37, and 84-106, which is required to establish the rejection of a claim for anticipation. Accordingly, Applicants can only surmise as to how the Office is applying the teachings of Lee et al. to claims 1, 3, 4, 7-37, and 84-106. Given the absence of any analysis explaining how Lee et al. anticipates claims 1, 3, 4, 7-37, and 84-106, Applicants lack a sufficient factual basis upon which to rebut the Office's novelty rejection of claims 1, 3, 4, 7-37, and 84-106 in view of Lee et al. For this reason, Applicants respectfully request withdrawal of finality of the present Office Action to allow Applicants a fair opportunity to respond to the new ground of rejection."

Applicants' arguments are well-taken and found persuasive that the final Office action lacks an analysis explaining how Lee et al. anticipates the claims. Accordingly, the final Office action issued April 19, 2010 is found premature and thus in error. Consequently, the finality of the Office action will be withdrawn in favor of applicants.

## DECISION

The petition is **GRANTED**.

The Office action mailed April 19, 2010 is hereby vacated to the extent that it was made "final" and the Office action is now considered to be a non-final Office action. The after final amendment of June 21, 2010 will also be entered. This application will be returned to the examiner for further action consistent with this decision and to act on the amendment of June 21, 2010.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.



Remy Yucel  
Director, Technology Center 1600





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**MAR 23 2011**

**PCT LEGAL ADMINISTRATION**

NIXON & VANDERHYE, PC  
901 NORTH GLEBE ROAD, 11TH FLOOR  
ARLINGTON VA 22203

In re Application of: DELEYS et al.  
Application No.: 10/822871  
Filing date: April 13, 2004  
Attorney Docket No.: 2551-141  
For: SYNTHETIC ANTIGENS FOR THE DETECTION  
OF ANTIBODIES TO HEPATITIS C VIRUS

DECISION ON PETITION  
UNDER  
37 CFR 1.181

This decision is responsive to the September 23, 2010 petition under 37 CFR 1.181. No petition fee is required.

**BACKGROUND**

On December 13, 1991, applicant filed international application PCT/EP1991/002409 with the receiving Office (RO/EP), which claimed priority to application EP 90124241.2 filed December 14, 1990.

On August 14, 1992, prior to the expiration of 20 months from the earliest priority date, applicant filed a first submission under 35 U.S.C. 371 to commence national stage in the United States, which was assigned U.S. application number 07/920286. Applicant filed a transmittal letter, which indicated an express request to begin national examination procedures (35 U.S.C. 371(f)), together with the basic national fee (35 U.S.C. 371(c)(1)) and a copy of the international application (35 U.S.C. 371(c)(2)). On October 14, 1992, applicant filed an executed oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)) along with the requisite surcharge. The requirements of 35 U.S.C. 371 were fulfilled on October 14, 1992, as indicated on the Notification of Acceptance (Form PCT/EO/EO/903) mailed by the Office on January 6, 1993.

On April 13, 2004, the present application number 10/822871 was filed.

On June 18, 2004, the Office issued an official filing receipt.

On September 23, 2010, applicant filed the present petition under 37 CFR 1.181.



**DISCUSSION**

The petition states that application 07/920286 is a 371 of PCT/EP91/02409 filed December 13, 1991, and requests a corrected filing receipt which reflects this relationship. A review of Office records indicates that U.S. application 07/920276 is the national stage of PCT/EP1991/002409.

**CONCLUSION**

For the reasons mentioned above, the petition under 37 CFR 1.181 is GRANTED.

This application is being returned to the Technology Center Art Unit 1648 for examination. A corrected filing receipt will be mailed in due course.



Tamara Graysay  
PCT Special Program Examiner  
Office of PCT Legal Administration  
(571) 272-6728



Bryan Lin  
PCT Legal Examiner  
Office of PCT Legal Administration





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WINSTEAD PC  
P.O. BOX 50784  
DALLAS TX 75201

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JAN 03 2012

**OFFICE OF PETITIONS**

In re Application of  
Vlad Pigin  
Application No. 10/823,042  
Filed: April 13, 2004  
Attorney Docket No. 53510-P002US

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**ON PETITION**

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 28, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 20, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is November 21, 2008. The Notice of Abandonment was mailed September 6, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$465, and the submission required by 37 CFR 1.114; (2) the petition fee of \$930; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.



This application is being referred to Technology Center AU 2432 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/  
Terri Johnson  
Petitions Examiner  
Office of Petitions





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,145	04/13/2004	Peter J. Stromquist	307325.01	4540

69316	7590	08/18/2010
MICROSOFT CORPORATION		
ONE MICROSOFT WAY		
REDMOND, WA 98052		

EXAMINER	
IWARERE, OLUSEYE	

ART UNIT	PAPER NUMBER
3687	

NOTIFICATION DATE	DELIVERY MODE
08/18/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DBOUTON@MICROSOFT.COM  
vffiling@microsoft.com  
stevensp@microsoft.com





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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, DC 20231  
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AUG 17 2010

WESTMAN, CHAMPLIN & KELLY, P.A.  
900 Second Avenue South, Suite 1400  
Minneapolis, Minnesota 55042-3319

In re application of	:	DECISION ON PETITION
(Peter J. Stromquist)	:	TO CORRECT INVENTORSHIP
Serial Number: 10/823,145	:	UNDER 37 CFR. 1. 48 (a)
Filed: 04/13/2004	:	
For: EXTRACTING, TRANSFORMATION AND	:	
LOADING DESIGNER MODULE OF A	:	
COMPUTERIZED FINANCIAL SYSTEM	:	

This is a decision on the petition filed on July 16, 2007 under 37 CFR 1.48(a) to correct the inventorship of the above identified application. A petition fee of \$130.00 was included.

The petition is GRANTED.

The application was filed on April 13, 2004 listing Peter J. Stromquist as inventor. On July 16, 2007, applicants filed the present petition to add as inventors: Bryan Schoening of Parker, Colorado and Demetrius A. Austin of Denver, Colorado. Bryan Schoening and Demetrius A. Austin were erroneously omitted from the application without any deceptive intention on their part.

In view of the petition, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed to Peter J. Stromquist, Bryan Schoening, and Demetrius A. Austin.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt and correction of Office records to reflect the inventorship as corrected.

/Matthew S. Gart/  
Supervisory Patent Examiner Art Unit 3687  
Technology Center 3600  
(571) 272-3955





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WILMINGTON DE 19805**

**MAILED**  
**NOV 07 2011**  
**OFFICE OF PETITIONS**

In re Application of :  
Che-Hsiung Hsu, et al. :  
Application No. 10/823,311 : **DECISION GRANTING PETITION**  
Filed: April 13, 2004 : **UNDER 37 CFR 1.313(c)(2)**  
Attorney Docket No. UC0423USNA :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, November 7, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on October 7, 2011 be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.<sup>1</sup>***

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1786 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/  
Terri Johnson  
Petitions Examiner  
Office of Petitions

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<sup>1</sup> *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*





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QUALCOMM INCORPORATED  
5775 MOREHOUSE DR.  
SAN DIEGO, CA 92121

Mail Date: 08/03/2010

<b>Applicant</b>	: Robert Lloyd Robinett	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7643848	: RECALCULATION of PATENT
<b>Issue Date</b>	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/823,344	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 04/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **238** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.





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Cantor Colburn LLP-General Motors  
20 Church Street, 22nd Floor  
Hartford, CT 06103

**MAILED**

SEP 21 2010

**OFFICE OF PETITIONS**

In re Application of  
Alan L. Browne, et. al.  
Application No. 10/823,391  
Filed: April 13, 2004  
Attorney Docket No. H-205856

ON PETITION

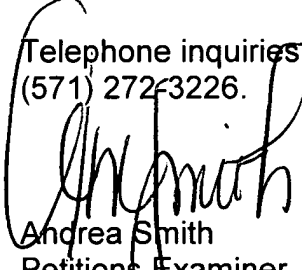
This is a decision on the petition under 37 CFR 1.137(b), filed July 30, 2010, to revive the above-identified application.

The application became abandoned for failure to file a reply to the final Office action mailed on November 12, 2009. A Notice of Abandonment was mailed June 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) along with the \$810 fee and the submission under 37 CFR 1.114; (2) the petition fee of \$1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3664 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

  
Andrea Smith  
Petitions Examiner  
Office of Petitions





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PRATT & WHITNEY CANADA CORP.  
1000 MARIE VICTORIN (018E5)  
LONGUEUIL QC J4G1A-1 CA CANADA

**MAILED**

APR 04 2012

**OFFICE OF PETITIONS**

In re Patent No. 6,990,798  
Issue Date: January 31, 2006  
Application No. 10/823,695  
Filed: April 14, 2004  
Attorney Docket No. 2993-514US PJF/RL

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DECISION ON PETITION

This is a decision on the Request For Certificate Of Correction Under Rule 37 CFR 3.11, filed November 14, 2007, which is being treated as a Petition Under 37 CFR §3.81(b), to correct assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct assignee's name on the previously submitted PTOL 85B. Accordingly, petitioner requests, in effect, that the Title Page of the above-identified patent be corrected, via issuance of Certificate of Correction, to correct assignee's name identified thereon from:

"Pratt & Whitney Corp."

to:

--Pratt & Whitney Canada Corp.--

37 CFR 3.81(b), effective June 25, 2004, reads:

*After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.



U.S. Patent No. 6,990,798  
Application No. 10/823,695  
Decision on Petition under 37 CFR §3.81(b)

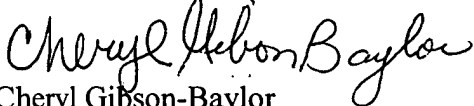
Page 2

The requisite \$100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), and the requisite \$130.00 processing fee (Fee Code 1464), as set forth under 37 CFR §1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with Petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 6,990,798.

  
Cheryl Gibson-Baylor  
Petitions Examiner  
Office of Petitions





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Paper No.

MEDIMMUNE, LLC  
Patrick Scott Alban  
ONE MEDIMMUNE WAY  
GAITHERSBURG MD 20878

**MAILED**

**AUG 31 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,582,297 : DECISION ON REQUEST  
Jennifer Reed : FOR  
Issue Date: September 1, 2009: RECONSIDERATION OF  
Application No. 10/823,810 : PATENT TERM ADJUSTMENT  
Filed: April 12, 2004 : and  
Atty Docket No. IL500US : NOTICE OF INTENT TO ISSUE  
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 30, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand fifty-seven (1057) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand fifty-four (1054) days.

Patentee and the Office agree on the bases for correction of the patent term adjustment. However, patentee's calculations differ from the Offices. First, the over 3 year period is 873 days (not 872 days), counting the number of days beginning on April 13, 2007<sup>1</sup>, the day after the date three years after the actual

<sup>1</sup> As stated in MPEP 2731,

When a period is indicated (in 37 CFR 1.703 or 1.704) as "beginning" on a particular day, that day is included in the period, in that such day is "day one" of the period and not "day zero." For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length.



filing date of the application, and ending on September 1, 2007, the date of issuance of the patent. Second, the period excluded for appellate review is 41 days (not 37 days), counting the number of days beginning on October 15, 2008, the date of filing of the notice of appeal, and ending on November 24, 2008, the date of mailing of a notice of allowance. Patentee and the Office both calculate the period of overlap as 69 days. Thus, the patent term adjustment is increased by 763 days (873 - 41 - 69) to 1054 days. (The period of 337 days entered at issuance for B delay is removed and the period of 763 days for B delay pursuant to this decision is entered).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand fifty-four (1054) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,582,297 B2

DATED : September 1, 2009

**DRAFT**

INVENTOR(S) : Reed

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 628 days

Delete the phrase "by 628 days" and insert – by 1054 days--



Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

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## REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH*\*

Attorney Docket  
Number: 54399036

Patent Number: 7664601

Filing Date  
(or 371(b) or (f) Date): 4/13/2004

Issue Date: 2/16/2010

First Named  
Inventor: DALY, JR., FRANCIS W.

Title: WEATHER INCIDENT PREDICTION

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

\**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature



Date August 11, 2010

Name

(Print/Typed) Raymond W. Armentrout

Registration Number 45,866

**Note:** Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below\*.



\*Total of \_\_\_\_\_ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.





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Patent Services  
101 Columbia Road  
PO Box 2245  
Morristown, NJ 07962-2245

Mail Date: 09/16/2010

<b>Applicant</b>	: Francis W. Daly JR.	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7664601	: RECALCULATION of PATENT
<b>Issue Date</b>	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/823,951	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 04/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **449** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.





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**MAILED**  
DEC 21 2010  
OFFICE OF PETITIONS

In re Patent No. 7,664,601  
Issued: February 16, 2010  
Application No. 10/823,951  
Filed: April 13, 2004  
Attorney Docket No. 543-99-036  
(HOOO-I-1126)

: DECISION ON REQUEST  
: FOR RECONSIDERATION  
: OF PATENT TERM ADJUSTMENT  
: AND  
: NOTICE OF INTENT TO ISSUE  
: CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT" filed October 18, 2010, requesting that the patent term adjustment determination for the above-identified patent be changed from 449 days to 1379 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred seventy-nine (1379) days is **GRANTED**.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

On August 11, 2010, patentee filed a Request for Recalculation of Patent Term Adjustment in View of Wyeth. On September 16, 2010, the Office mailed a decision granting the petition under 37 CFR 1.705(d) to the extent that a certificate of correction would be issued indicating that the term of the patent was extended or adjusted by 449 days.

The Office notes that the decision of September 16, 2010, was issued in error. Accordingly, the decision of September 16, 2010, is withdrawn. The present decision supersedes the decision mailed on September 16, 2010.

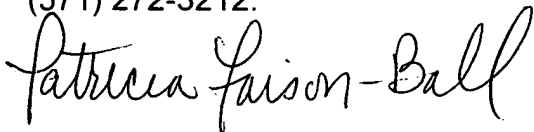
The Office has determined that the patent term adjustment for the above-identified patent is 1379 days.



The Office will *sua sponte* issue a certificate of correction which supercedes any previously mailed certificates of correction regarding the Patent Term Adjustment. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand three hundred seventy-nine (1379) days**.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

A handwritten signature in cursive script that reads "Patricia Faison-Ball".

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



**DRAFT**  
**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**CERTIFICATE OF CORRECTION**

PATENT : 7,664,601 B2

DATED : February 16, 2010

INVENTOR(S) : Francis W. Daly Jr.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (1003) days

Delete the phrase "by 1003 days" and insert – by 1379 days--





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Paper No.

**MAILED**

**JAN 03 2012**

**OFFICE OF PETITIONS**

PETER K. TRZYNA, ESQ.  
P O BOX 7131  
CHICAGO IL 60680

In re Application of	:	
Donovan	:	
Application No. 10/824,038	:	DECISION ON PETITION
Filed: April 14, 2004	:	PURSUANT TO
Attorney Docket No.	:	37 C.F.R. § 1.137(B)
15719US01	:	
Title: UNIVERSAL INSTANT	:	
MESSAGING SYSTEM FOR THE	:	
INTERNET	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed December 19, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a non-final Office action, mailed May 11, 2011, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 12, 2011. A notice of abandonment was mailed on December 19, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply



until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has submitted, *inter alia*, an amendment, the petition fee, a statement that is being construed as the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on December 19, 2011 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.<sup>1</sup> All other inquiries

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<sup>1</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded



concerning this application should be directed to the Technology Center.



Paul Shanowski  
Senior Attorney  
Office of Petitions

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that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,178	04/14/2004	Chitra Jain	67519.001042	6347
21967 7590 05/06/2011 HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109			EXAMINER JANVIER, JEAN D	
			ART UNIT 3682	PAPER NUMBER
			MAIL DATE 05/06/2011	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.





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Baker Botts, LLP  
2001 Ross Avenue  
Suite 600  
Dallas, TX 75201-2980

In re application of : **DECISION ON RENEWED**  
Chitra Jain et al. : **PETITION TO MAKE SPECIAL**  
Application No. 10/824,178 : **(ACCELERATED**  
Filed: April 14, 2004 : **EXAMINATION)**  
For: **SYSTEM AND METHOD FOR PROVIDING**  
**PERSONALIZED CUSTOMER ASSISTANCE**  
**USING A FINANCIAL CARD HAVING AN RFID**  
**DEVICE**

This is in response to the renewed petition filed on December 2, 2004 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The delay in treating this petition is sincerely regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references.

A petition to make special was filed on April 14, 2004. The petition was dismissed in a decision mailed February 9, 2001 wherein it was held that item (B) cited above was missing.

The renewed petition filed December 2, 2004 supplies the missing item. Therefore, the requirements for special status under MPEP § 708.02 VIII have been met, and the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.



Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

**SUMMARY:** Petition to Make Special **GRANTED**.



---

Steven N. Meyers  
Quality Assurance Specialist  
Technology Center 3600  
(571) 272-6611

SNM/snm: 5/5/11





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Song K. Jung  
MCKENNA LONG & ALDRIDGE LLP  
1900 K Street, N.W.  
Washington DC 20006

**MAILED**

**FEB 28 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,408,614 :  
Issue Date: August 5, 2008 :  
Application No. 10/824,436 : ON PETITION  
Filed: April 15, 2004 :  
Atty Docket No. 8733.1025.00-US :

This is in response to the REQUEST FOR PATENT TO BE CORRECTED UNDER 37 C.F.R. §3.81(b) filed December 17, 2010, which is being treated as a request under 37 CFR 3.81(b)<sup>1</sup> to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **DISMISSED**.

By decision mailed October 21, 2008, a prior REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 CFR 1.323 was dismissed. The request included a check in the amount of \$100, an authorization to charge any deficiency in fees to a Deposit Account, and a Request for Certification of Correction Under 37 CFR 1.323. The processing fee under 37 CFR 1.17(i) of \$130 was never charged and is now being charged to the Deposit Account as authorized. The fee set forth in 37 CFR 1.20(a) for issuance of a certificate of correction is paid by way of the \$100 check. The request for a certificate of correction was dismissed by the Certificate of Corrections Branch because no decision granting the request had been issued by the Office of Petitions.

On December 17, 2010, petitioner submitted their request to the Office of Petitions for decision. A review of the record reveals that "LG.Philips LCD Co., Ltd." was named on the form PTOL-85B. Petitioner requests that the above-identified patent be corrected

<sup>1</sup> See MPEP 1309, subsection II, Official Gazette at 1283 OG 148 (June 22, 2004) or Final Register at 69 FR 29865 (May 26, 2004).



to state the name of the assignee as "LG Display Co., Ltd." and requests that a Certificate of Correction be issued identifying the assignees. Petitioner submits a "Certificate of Correction" for this purpose.

Both petitioner's evidence and Office records show that the assignment of the above-identified application to LG.Philips LCD Co, Ltd was submitted for recording in the Office on April 15, 2004 (Reel/Frame 015227/0621). This recording occurred before issuance of the patent on August 5, 2008, and even prior to payment of the Issue Fee on April 22, 2008.

However, the change of name of the assignee to "LG Display Co. Ltd." was not recorded until October 17, 2008 (Reel/Frame, 021754/0045). This occurred after the issuance of the patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. See also MPEP 1481.01.

Accordingly, since the change of the name of the assignee was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. The patent properly issued in the name of the assignee as recorded in the Office on the date of issuance of the patent.

Telephone inquiries concerning this decision on petition should be directed to the undersigned at (571) 272-3219.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions





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Michael A. Ervin  
8202 Talbot Cove  
Austin TX 78746

**MAILED**

**JAN 04 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,014,605  
Issue Date: March 21, 2006  
Application No. 10/824,821  
Filed: April 15, 2004  
Attorney Docket No. MAE-WW-3

:  
:  
:  
:  
:

**ON PETITION**

This is a decision on the petition under 37 CFR 1.378(c), filed April 30, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.


The petition is **GRANTED**.

This patent expired on March 22, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner submitted \$2,195 with the instant petition. The amount due was \$1640 for the surcharge required under 37 CFR 1.20(i)(2) plus \$490 for the three and one-half year maintenance fee for a total due of \$2130. Accordingly, the excess \$65 will be refunded by Treasury Check in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.

  
David Bugci  
Petitions Examiner  
Office of Petitions





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Decision Date : October 7, 2011

In re Application of :

Vahid Saadat

Application No : 10824936

Filed : 14-Apr-2004

Attorney Docket No : USGINZ00700

DECISION ON REQUEST TO WITHDRAW AS  
ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 7, 2011

The request is **APPROVED**.

The request was signed by Johny U. Han (registration no. 45565 ) on behalf of all attorneys/agents associated with Customer Number 40518 . All attorneys/agents associated with Customer Number 40518 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name USGI Medical, Inc.  
Name2  
Address 1 1140 Calle Cordillera  
Address 2  
City San Clemente  
State CA  
Postal Code 92673  
Country US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions



<b>Doc Code: PET.AUTO</b> <b>Document Description: Petition automatically granted by EFS-Web</b>		PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	<b>REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS</b>	
Application Number	10824936	
Filing Date	14-Apr-2004	
First Named Inventor	Vahid Saadat	
Art Unit	3779	
Examiner Name	MATTHEW KASZTEJNA	
Attorney Docket Number	USGINZ00700	
Title	Method and apparatus for obtaining endoluminal access	
<input checked="" type="radio"/> Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number:		40518 <hr/>
The reason(s) for this request are those described in 37 CFR: 10.40(b)(4)		
Certifications		
<input checked="" type="checkbox"/> I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment		
<input checked="" type="checkbox"/> I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled		
<input checked="" type="checkbox"/> I/We have notified the client of any responses that may be due and the time frame within which the client must respond		
Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:		
Name	USGI Medical, Inc.	
Address	1140 Calle Cordillera	
City	San Clemente	
State	CA	
Postal Code	92673	
Country	US	



I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Johney U. Han/
Name	Johney U. Han
Registration Number	45565





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STEPHEN J. MADIGAN  
232 ZACHARY WALK  
MURPHY, TX 75094-3790

**MAILED**

**FEB 08 2011**

**OFFICE OF PETITIONS**

In re Patent of Stephen Madigan et al. :  
Patent No. 7,070,541 :  
Issue Date: July 4, 2006 :  
Application No. 10/824,963 :  
Filing Date: April 15, 2004 :  
For: Educational Tracks and Apparatuses :

Decision on Petition

This is a decision on the petition under 37 C.F.R. § 1.378(b), filed September 13, 2010, to reinstate the above-identified patent.

The petition is **DISMISSED**.

Facts

The patent issued July 4, 2006.

The 3.5 year maintenance fee could have been paid from July 4, 2009, to January 4, 2010, or with a surcharge from January 5, 2010, to Tuesday, July 6, 2010. The fee was not timely paid. As a result, the patent expired on July 5, 2010.

The instant petition was filed September 13, 2010.

The petition is signed by Winifred Madigan, one of the inventors. The other inventors of record are Stephen Madigan, Larry Hess, and Cynthia Hess.

Ms. Hess states the delay in payment of the fee was “unavoidable because of the divorce of two of the inventors.” Ms. Hess states the patent information was in the possession of the divorce attorneys and that the patentees were unaware of the deadline. Ms. Hess also states, “Mail is being sent to different locations, so the deadline was not communicated properly.”

Discussion

35 U.S.C. § 41(c)(1) states, with emphasis added, “The Director may accept the payment of any maintenance fee . . . after the six month grace period if the delay is *shown to the satisfaction of*



*the Director* to have been unavoidable.” Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. A petition will not be granted if petitioner provides insufficient evidence to “show” that the delay was unavoidable.

In order for a party to show unavoidable delay, the party must show “reasonable care was taken to ensure that the maintenance fee would be promptly paid.”<sup>1</sup> The level of “reasonable care” required to be shown is the same as the level of “care or diligence ... generally used and observed by prudent and careful men in relation to their most important business.”<sup>2</sup> When determining if a period of delay has been shown to have been unavoidable, the Office will take “all the facts and circumstances into account” and will decide each petition “on a case-by-case basis.”<sup>3</sup>

The Office has reviewed the record and determined the petition fails to demonstrate the entire delay in payment of the maintenance fee was unavoidable.

37 C.F.R. § 1.378(b) requires a party to “enumerate the steps taken to ensure timely payment of the maintenance fee.” In other words, a failure by a party to take, or obligate another party to take, steps to ensure timely payment of maintenance fees, will “preclude acceptance of the delayed payment of the maintenance fee under 37 C.F.R. § 1.378(b)(3).”<sup>4</sup> The petition fails to identify any steps taken to ensure the 3.5 year maintenance fee would be timely paid. Therefore, the petition cannot be granted.

Ms. Hess states the patent information was in the possession of the divorce attorneys. However, Ms. Hess fails to fully identify the specific patent information in the possession of the attorneys or describe how their possession prevented her or any other inventor from timely paying the maintenance fee.

Ms. Hess states, “[T]he deadline was not communicated promptly.” Ms. Hess *may* be seeking to argue the delay was unavoidable, at least in part, because of a failure by Ms. Hess to receive a maintenance fee reminder. However, delay resulting from a failure to receive a maintenance fee reminder is not unavoidable delay.<sup>5</sup> Therefore, delay resulting from a failure by Ms. Hess to receive a maintenance fee reminder was not unavoidable delay.

For the reasons above, the showing of record is not sufficient to establish that the entire delay was unavoidable within the meaning of 37 C.F.R. § 1.378(b) and the petition is dismissed.

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<sup>1</sup> 37 C.F.R. § 1.378(b).

<sup>2</sup> *In re Mattulath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). See also *Ray v. Lehman*, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) (“[I]n determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.”)

<sup>3</sup> *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982).

<sup>4</sup> Manual of Patent Examining Procedure (“MPEP”) § 2590 (8th ed., Rev. 8, July 2010).

<sup>5</sup> See *Ray v. Lehman*, 55 F.3d 606, 609; 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995).



Even if the showing of record demonstrated the entire delay in submission of the fee was unavoidable, the petition could not be granted. A review of the record indicates the petition is only signed by Ms. Hess, one of the four inventors. All future papers filed in this case must include the signatures of all the inventors. Ms. Hess should feel free to call the telephone number at the end of the instant decision with respect to any questions she may have regarding the signatures which must appear on future papers.

#### Petitioner's Current Options

##### I. Petitioner may file a request for reconsideration.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Any petition for reconsideration of this decision must be accompanied by a non-refundable petition fee of \$400 as set forth in 37 C.F.R. § 1.17. Extensions of time under 37 C.F.R. § 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.378(b)."

*After a decision on the petition for reconsideration is issued, no further reconsideration or review of the matter will be undertaken by the Director.* Therefore, it is extremely important that petitioner supply any and all relevant information and documentation with his request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that it is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable. Therefore, if a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

##### II. Petitioner may wish to file a petition under 37 C.F.R. § 1.378(c).

Petitioner may wish to consider filing a petition to reinstate the patent based on unintentional expiration under 37 C.F.R. § 1.378(c). In general, a petition under 37 CFR 1.378(c) needs to simply state that expiration of the patent was "unintentional," whereas a petition under 37 CFR 1.378(b) must prove that the entire delay in payment was "unavoidable." The surcharge for an unintentional petition under 37 C.F.R. § 1.378(c) is \$1,640. Therefore, if a petition under 37 C.F.R. § 1.378(c) is filed, it must be accompanied by a payment of \$940.

A copy of a blank petition form PTO/SB/66 is enclosed for petitioner's convenience. As an alternative to writing a check, or mailing a money order, petitioner may pay the required additional funds by credit card. A credit card authorization form is enclosed for petitioner's convenience.

##### III. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

Since the petition is dismissed, petitioner may request a refund of the maintenance fee and surcharge. Petitioner is reminded that if a request for reconsideration is later filed along with the



\$400 fee, the \$400 will not be refunded. A request for a refund should be sent to: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany any request for refund.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.<sup>6</sup> Document Code "PET.OP" should be used if the request is filed electronically.

By mail: Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300  
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley  
Senior Petitions Attorney  
Office of Petitions

Attachments: Form PTO/SB/66 (petition form)  
Form PTO-2038 (credit card form)

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<sup>6</sup> General Information concerning EFS Web can be found at <http://www.uspto.gov/patents/process/file/efs/index.jsp>.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,209,045	2007-04-24	10/825,183	2004-04-16	P25150

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert W. Mueller/	Date (YYYY-MM-DD)	2011-12-15
Name	Robert W. Mueller	Registration Number	35043
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





## UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

In re Patent No. 7209045  
Issue Date: April 24, 2007  
Application No. 10825183  
Filed: April 16, 2004  
Attorney Docket No. P25150

:

:DECISION GRANTING PETITION  
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed December 16, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 16, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.                     

DATE : 10/25/11

TO SPE OF : ART UNIT 2173

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/825,251 Patent No.: 7836408

CofC mailroom date: 09/19/11

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**  
**Randolph Square – 9D10-A**  
**Palm Location 7580**

**RoChaun Hardwick**  
**Certificates of Correction Branch**  
**703-756-1580**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☐ **Approved**

All changes apply.

☒ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:** The changes to column 6, line 21 should NOT be entered because they introduce new matter into the disclosure, as noted in the Final Rejection dated 3/18/10. The term "scroll bar" is recited throughout the original disclosure and one of ordinary skill in the art at the time the invention was made would interpret "scroll bar" to mean the entire bar that appears on the side or bottom of a window that allows the user to control which part of the document is currently in the window frame. Applicant's amendments appear to equate the "scroll bar" with the scroll box (also called a scroll



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

thumb or elevator) that moves from one end to the other within the scroll bar to reflect the position within a document. The original disclosure does not provide support for this interpretation. There is also no support in the original disclosure for changing the entire scroll bar based on a current position of the file being scrolled.\_\_\_\_\_

/Boris Pesin/

**SPE**

2172\_

**Art Unit**





UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY OF COMMERCE AND  
COMMISSIONER OF PATENTS AND TRADEMARKS  
P.O. BOX 1450  
Alexandria, Va 22313- 1450  
[www.uspto.gov](http://www.uspto.gov).

DATE: February 1, 2012  
Patent No: 7836408  
Applicant: 7836408  
Issued: 11/16/10

Request for consideration of Certificate of Correction:

Consideration has been given for your request for the certificate of correction for the above-identified patent under the provisions of Rules 1.322/1.323.

Respecting the alleged error in Column 6 line 21 are printed in accordance with the record. The Examiner stated the correction would introduce new matter into the disclosure, as noted in the final rejection dated 3/18/10. Therefore, no correction(s) are in order here under United States Codes (U.S.C.) 254 Code of Federal Regulation (C.F.R.) 1.322/1.323.

In view of the foregoing, in this matter your request is hereby denied.

RoChaun Johnson for  
Mary Diggs, Supervisor  
Decisions and Certificates of Correction  
(571) 272-0470

APPLE INC.  
1 INFINITE LOOP, MS 362PAT  
CUPERTINO, CA 95014





UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450  
Alexandria, VA 22313-1450  
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**MAILED**

OCT 15 2010

**OFFICE OF PETITIONS**

P-Two Industries Inc.  
P.O. Box No. 6-57  
Junghe, Taipei 235 TAIWAN

In re Application of  
CHIU, HSIEN-YU  
Application No. 10/825,284  
Filed: 04/16/2004  
Title: THUMBNAIL SIZE FLASH MEMORY  
CARD CONNECTOR

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed on July 13, 2005, to withdraw the holding of abandonment.

On December 16, 2004, the Office mailed a non-final Office action, which set a three-month shortened statutory period to reply. In the absence of a timely filed reply, the application was held abandoned on March 17, 2005. A Notice of Abandonment was mailed on July 13, 2005.

In the present petition, applicant requested that the Office withdraw the holding of abandonment due to non-receipt of the non-final Office action.

**PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT**

A review of the record indicates no irregularity in the mailing of the non-final Office action and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three-month period for reply was set in the non-received Office communication, a copy of the docket report showing all



replies docketed for a date three months from the mail date of the non-received Office communication must be submitted as documentary proof of non-receipt of the Office communication. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail (e.g. if the practitioner has a history of not receiving Office communications).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. The practitioner submitted a copy of the docket records where the non-received Office action would have been entered had it been received and docketed. Additionally, the practitioner attested to the fact that a search of the records indicated that the Office action was not received.

As applicant made the required showing, the petition to withdraw the holding of abandonment is granted.

Technology Center Art Unit 2833 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for re-mailing of the non-final Office action. The three month shortened statutory time period for responding to the non-final Office action will be set to run from the re-mailing date of the non-final Office action.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

A handwritten signature in black ink, appearing to read "C. T. Donnell". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Christina Tartera Donnell  
Senior Petitions Attorney  
Office of Petitions





# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
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Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,309	04/16/2004	Richard S. Kusleika	12013/48803	7747
<div>23838      7590      09/23/2010</div> <div>KENYON &amp; KENYON LLP</div> <div>1500 K STREET N.W.</div> <div>SUITE 700</div> <div>WASHINGTON, DC 20005</div>				
			<div>EXAMINER</div> <div>VU, QUYNH-NHU HOANG</div>	
			<div>ART UNIT</div> <div>3763</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE</div> <div>09/23/2010</div>	<div>DELIVERY MODE</div> <div>PAPER</div>

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.





UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

KENYON & KENYON LLP  
1500 K STREET N.W.  
SUITE 700  
WASHINGTON DC 20005

*In re* Application of:  
KUSLEIKA, RICHARD S.  
Serial No.: 10/825,309  
Filed: April 16, 2004  
Docket: 12013/48803

Title: CATHETER FOR TISSUE DILATION  
AND DRUG DELIVERY

:  
:  
:  
: DECISION ON PETITION  
: under 37 CFR 1.181  
:  
:

This is a decision on the petition filed on March 22, 2010 filed under 37 CFR 1.181 seeking to have the ground of the rejection in the Examiner's Answer mailed on January 22, 2010 be designated as a new ground of rejection. The petition is being considered pursuant to 37 CFR 1.181 and no fee is required.

The petition is **dismissed**.

The following relevant facts include:

1. On March 5, 2009, the examiner issued a final rejection. In the final rejection, claims 16-24, 38-39 are rejected under 35 U.S.C. 103(a) as obvious over Shockey et al. (US 4,994,033) in view of Sogard et al. (US 5,447,497). The examiner explained what the primary reference teaches. In particular, the examiner also explained that Sogard discloses a similarly device comprising an elongate flexible catheter 20 having a flexible treatment sheath (outer sheath) 26 mounted to a distal end region of the catheter and a dilatation balloon (inner balloon) 28 within the flexible treatment sheath 26, wherein the flexible treatment sheath 26 is formed of an elastic member, such as high-compliant balloon are made from soft or flexible polymeric materials and the dilatation/inner balloon 28 is non-compliant balloon are made from inelastic materials such as rigid or stiff polymeric materials. The examiner emphasized that Applicant acknowledged that the inelastic materials such as PET, polypropylene on page 2 of Pre-Appeal Brief filed 7/28/08) are similar to materials that Sogard discussed in col. 2, lines 43-52, col. 8, lines 49-50. In conclusion of the rejection of the claims, the examiner stated that it would have



been obvious to a person skilled in the art "to modify the device of Shockey with a dilatation balloon made of an inelastic material, as taught by Sogard, in order to dilate and prevent the rupture of balloon since the small increase in diameter when the balloon inflated to its expanded diameter".

2. On May 28, 2009, the applicant filed a Pre-Appeal Brief Conference Request. One of the issues raised, *inter alia*, was the outer treatment sheath is "elastic" and the balloon is "substantially inelastic" so that the dilatation balloon acts radially upon the surrounding tissue through the treatment sheath to effect a dilatation of the surrounding tissue.

3. On September 2, 2009, the decision on the Pre-Appeal Conference Request was mailed. The applicant was notified that the final rejection remains.

4. In response to the November 5, 2009 Notification of Non-compliant Appeal Brief, on December 2, 2009, the applicant filed a Supplemental Appeal Brief appealing the finally rejected claims 16-24 and 38-39. In the Brief, the Appellant argues, *inter alia*, that Shockey does not disclose the step of "while maintaining the dilatation balloon in an unexpanded condition, supplying a treatment fluid under pressure to a compartment formed by the treatment sheath, to elastically expand the treatment sheath radially into a substantially conforming contact with the surrounding tissue at the treatment site [and] cause the treatment fluid to pass through the treatment sheath from the compartment to the surrounding tissue." The Appellant also argues that the examiner failed to explain why a person of ordinary skill in the art would choose an "elastic" material for the outer sleeve of Shockey.

5. In response to the Supplemental Appeal Brief, the examiner issued an Examiner's Answer. In the Examiner Answer, claims 16-24, 38-39 are rejected under 35 U.S.C. 103(a) as obvious over Shockey et al. (US 4,994,033) in view of Sogard et al. (US 5,447,497). The rejection of the claims is in verbatim as the final rejection of the claims. However, on page 5 of the Examiner's Answer, under the Section "Response to Arguments", in order to prove that the polyethylene tetrathalate or poly chloride material used in Sogard patent is "elastic". In accordance with the MPEP § 2131.01, the examiner cited two prior art patents Rey (US Pat. 5,413,822) and Woodyard (US Pat. 3,651,591) to support the material used in Sogard patent is "elastic" same as claimed.

6. On March 22, 2010, the appellant filed a Reply Brief with Attachment, *inter alia*, in response to the newly cited prior art references in the Examiner's Answer, the appellant also cited two rebuttal prior art references, namely, U.S. Patent 5,800,540 to Chin and U.S. Patent 5,474,563 to Myler showing the polyethylene, polyethylene terephthalate (PET), polyvinyl chloride [PVC], or other generally inelastic materials. Similarly, U.S. Patent No. 5,474,563 to Myler et al. states that a conventional balloon material may be used. The modulus of elasticity of both PET and PVC evidences that they are both substantially inelastic. Additionally, the appellant also cited a website of Material Properties, [www.plasticsintl.com](http://www.plasticsintl.com), listing the tensile modulus of PET as 400,000 psi and of PVC as 411,000 psi.



7. On March 22, 2010, the current petition was filed arguing that the examiner has improperly introduced a new ground of rejection in the Examiner's Answer of January 22, 2010. The applicant is requesting the rejection of claims of the Examiner's Answer to be designated as new ground of rejection. In the petition, petitioner argues that the citation of two new prior art references to Rey (US Pat. 5,413,822) and Woodyard (US Pat. 3,651,591) to prove the material used in the secondary prior art reference to Sogard patent is "elastic". Therefore, the rejection of claims must be designated as a new ground of rejection.

#### Discussion and Analysis

A review of the final rejection of March 5, 2009 and the Examiner's Answer of January 22, 2010 shows there is no new ground of rejection at all. The rejection of claims was never changed. In the petition, petitioner argues that the examiner's rebuttal arguments cited two new prior art references, Rey (US Pat. 5,413,822) and Woodyard (US Pat. 3,651,591), showing the material used in the secondary prior art reference to Sogard patent is "elastic". Therefore, the rejection of claims constitutes a new ground of rejection.

A careful study of the final rejection of March 5, 2009 and the Examiner Answer of January 22, 2010 does show that the rejection of claims was based on the teaching of flexible treatment sheath from Sogard patent. The appellant disagreed with the examiner. The examiner merely cited two prior art references to show such material used in the secondary reference as "elastic" under MPEP § 2131.01. The Examiner's Answer of January 22, 2010 simply does not show any new grounds of rejection. Petitioner also fails to identify any particular rejection under Paragraph 9 of the Examiner's Answer constitutes new ground of rejection. It should be noted that there is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. It is further noted in the Reply Brief of March 22, 2010, in order to negate what the examiner's interpretation of the "elastic" material is in the Sogard patent, the appellant was allowed to enter his new rebuttal prior art references, namely, U.S. Patent 5,800,540 to Chin and U.S. Patent 5,474,563 to Myler to show the material used in Sogard patent is not elastic. The applicant has fully rebutted the examiner's rebuttal arguments in the Examiner's Answer of January 22, 2010. In the letter of May 11, 2010, the examiner has considered the newly cited rebuttal prior art references by the appellant and permitted the entry of the Reply Brief for appeal purpose. Under the circumstances, the appellant had full opportunity to argue and react to the alleged new grounds of rejection.

The examiner's rebuttal arguments by citing two prior art references to show the material used in the secondary reference to Sogard patent in the Examiner's Answer do not alter the grounds of rejection presented in Section 9 of the Examiner's Answer. In this case, the statutory basis for the rejection and the evidence relied upon in support of the rejection remained the same in the final rejection and the Examiner's Answer. In such a circumstance, a change in the discussion of, or rationale in support of, a change of arguments, if any, the examiner's rebuttal arguments do not necessarily constitute a new



ground of rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425,426-27 (CCPA 1976); MPEP § 1207.03III<sup>1</sup>. Petitioner should also note that even if the suggestion to characterize the examiner's rebuttal arguments in the Examiner's Answer of January 22, 2010 as new ground of rejection were persuasive, which it is not, the appellant still would have had a fair opportunity to react to these rebuttal arguments in the Reply Brief as permitted under 37 CFR 41.41(a) (1). In this case, the appellant in fact did file a Reply Brief and Attachment to react to the examiner's rebuttal arguments in the Examiner's Answer. A fair opportunity to react to the examiner's rebuttal arguments was already provided.

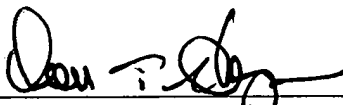
### Conclusion

For the foregoing reasons, the relief requested by petitioner will not be granted. Specifically, the requested designation of the rejection of claims as new ground of rejection in the Examiner's Answer of January 22, 2010 can not be granted. The Reply Brief with Attachment filed on May 11, 2010 was considered and entered by the examiner. In accordance with the Administrative Remand of June 2, 2010, the case is now being sent to the Board of Appeals and Interference for docketing.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

The petition is dismissed.



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Donald T. Hajec, Director  
Technology Center 3700

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<sup>1</sup> MPEP 1207.03 III states in pertinent part: There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See In re Kronig, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. Id. at 1303, 190 USPQ at 427 (reliance upon fewer references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).





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Paper No.

MCANDREWS HELD & MALLOY, LTD  
500 WEST MADISON STREET  
SUITE 3400  
CHICAGO IL 60661

**MAILED**

**OCT 28 2010**

**OFFICE OF PETITIONS**

In re Application of	:	
Brian Schoner	:	
Application No. 10/825395	:	ON APPLICATION FOR
Filed: 04/15/2004	:	PATENT TERM ADJUSTMENT
Atty Docket No.	:	
15442US02	:	

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)," filed on August 12, 2010, which is treated as a petition under 37 CFR 1.705(b). Applicant asserts that the correct patent term adjustment is 1086 days rather than 812 days as indicated in the Determination of Patent Term Adjustment Under 35 U.S.C. § 154(b) mailed with the notice of allowance. Applicant asserts entitlement to the additional patent term adjustment solely on the basis that the patent will issue more than 3 years after the filing date.

The instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under



§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee<sup>1</sup>.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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<sup>1</sup> For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3231.

A handwritten signature in dark ink, appearing to read "D. Wood", is positioned above the typed name.

Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,440	04/14/2004	Bruce Bent	049212-0102	8474
22428	7590	01/10/2011		
FOLEY AND LARDNER LLP			EXAMINER	
SUITE 500			PATEL, JAGDISH	
3000 K STREET NW				
WASHINGTON, DC 20007			ART UNIT	PAPER NUMBER
			3693	
			MAIL DATE	DELIVERY MODE
			01/10/2011	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.





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FOLEY AND LARDNER LLP  
SUITE 500  
3000 K STREET NW  
WASHINGTON DC 20007

In re Application of	:	
Bruce BENT	:	DECISION ON PETITION
Application No. 10/825,440 Reissue	:	TO EXPUNGE FILED
Filed: April 14, 2004	:	UNDER 37 CFR 1.59(b)
For: MONEY FUND BANK SYSTEM	:	

This is a decision on the petition under 37 CFR 1.59(b), filed September 30, 2010, to expunge information from the above identified application.

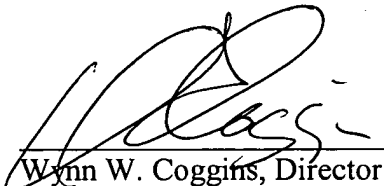
The decision on the petition will be held in abeyance until allowance of the application or mailing of an Ex parte Quayle action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that the propriety information disclosure statement (PIDS) filed October 12, 2010 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file.





Wynn W. Coggins, Director  
Patent Technology Center 3600  
(571) 272-5350

lm: 1/5/11

LM





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,440	04/14/2004	Bruce Bent	049212-0102	8474
22428 7590 05/05/2011 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER PATEL, JAGDISH	
			ART UNIT 3693	PAPER NUMBER
			MAIL DATE 05/05/2011	DELIVERY MODE PAPER

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The time period for reply, if any, is set in the attached communication.





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MAY - 5 2011

FOLEY AND LARDNER LLP  
SUITE 500  
3000 K STREET NW  
WASHINGTON DC 20007

*In re* Application of BENT  
Appl. No.: 10/825,440  
Filed: April 14, 2004  
For: MONEY FUND BANK SYSTEM

:  
: **RESPONSE TO PETITION**  
: **UNDER 37 CFR 1.59**  
:

This is a decision on the petitions under 37 CFR 1.59(b), filed 8/20/2010 and 9/30/2010, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that documents Nos. CD7, CD31, CD35-CD42, CD69, CD70 and CD71 submitted in the Information Disclosure Statement (IDS) filed on August 20, 2010 be expunged from the record.

A petition under 37 CFR 1.59(b) must contain:

- (A) a clear identification of the information to be expunged without disclosure of the details thereof;
- (B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the Information has not been otherwise made public;
- (C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
- (D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
- (E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b)

The information in question has been determined by the undersigned to not be material to the examination of the instant application.


As the above conditions have been met, the requested material has been expunged. However, the material will not be returned to the applicants. The obligation to return documents was removed from 37 CFR 1.59 (June 30, 2003 Fed Register, Vol. 68, No. 125, 38613). The documents have been closed from the IFW record so as not to be viewable by non-PTO personnel. This decision



only applies to this application, and any other applications containing the proprietary information will need to be separately decided.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any questions regarding this decision should be directed to Supervisory Patent Examiner James Kramer at (571) 272-6783.



Wynne Coggins, Director  
Patent Technology Center 3600  
(571) 272-5350

JAK: 4/25/11

lm





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**MAY 26 2011**

FOLEY AND LARDNER LLP  
SUITE 500  
3000 K STREET NW  
WASHINGTON DC 20007

*In re* Application of BRUCE BENT  
Appl. No.: 10/825,440  
Filed: April 14, 2004  
For: MONEY FUND BANK SYSTEM

:  
:  
: **RESPONSE TO PETITION**  
: **UNDER 37 CFR 1.59**  
:

This is a decision on the petitions under 37 CFR 1.59(b), filed 9/30/2010 (two petitions filed concurrently) and 12/2/2010, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that documents Nos. CD7, CD31, CD35-CD42, CD69, CD70 and CD71 submitted in the Information Disclosure Statement (IDS) filed on August 20, 2010 be expunged from the record. Applicant further request that all documents on the Proprietary Information Disclosure Statement (PIDS) filed September 30, 2010 be expunged.

A petition under 37 CFR 1.59(b) must contain:

- (A) a clear identification of the information to be expunged without disclosure of the details thereof;
- (B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the Information has not been otherwise made public;
- (C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
- (D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
- (E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b)

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

As the above conditions have been met, the requested material has been expunged. However, the material will not be returned to the applicants. The obligation to return documents was removed from 37 CFR 1.59 (June 30, 2003 Fed Register, Vol. 68, No. 125, 38613). The documents have



only applies to this application, and any other applications containing the proprietary information will need to be separately decided.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any questions regarding this decision should be directed James Kramer at (571) 272-6783.

  
\_\_\_\_\_  
Wynn Coggins, Director  
Patent Technology Center 3600  
(571) 272-5350

JAK: 5/24/11

LM





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FOLEY AND LARDNER LLP  
SUITE 500  
3000 K STREET NW  
WASHINGTON DC 20007

*In re* Application of Bruce BENT  
Appl. No.: 10/825,440 Reissue  
Filed: April 14, 2004  
For: MONEY FUND BANK SYSTEM

:  
: **RESPONSE TO PETITION**  
: **UNDER 37 CFR 1.59**  
:

This is a decision on the petitions under 37 CFR 1.59(b), filed September 1, 2011, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that documents Nos. CD 69-71 submitted in the Information Disclosure Statement (IDS) filed on August 20, 2010 be expunged from the record.  
In addition the Petitioner requests that document No. PB1 listed on PTO/SB/08 form in the Propriety Information Disclosure Statement (PIDS) filed September 1, 2011 be expunged from the record.

A petition under 37 CFR 1.59(b) must contain:

- (A) a clear identification of the information to be expunged without disclosure of the details thereof;
- (B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the Information has not been otherwise made public;
- (C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
- (D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
- (E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b)


The information in question has been determined by the undersigned to not be material to the examination of the instant application.



As the above conditions have been met, the requested material has been expunged. However, the material will not be returned to the applicants. The obligation to return documents was removed from 37 CFR 1.59 (June 30, 2003 Fed Register, Vol. 68, No. 125, 38613). The documents have been closed from the IFW record so as not to be viewable by non-PTO personnel. This decision only applies to this application, and any other applications containing the proprietary information will need to be separately decided.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any questions regarding this decision should be directed to James Kramer at (571) 272-6783

  
\_\_\_\_\_  
Wynn Coggins, Director  
Patent Technology Center 3600  
(571) 272-5350

wc/jak: 11/15/11

LM





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CARR & FERRELL LLP  
120 CONSTITUTION DRIVE  
MENLO PARK CA 94025

MAILED

JUL 21 2011

In re Application of	:	OFFICE OF PETITIONS
Baird Mallory	:	
Application No. 10/825729	:	
Filing or 371(c) Date: 04/16/2004	:	ON PETITION
Attorney Docket Number:	:	
PA2627US	:	

This decision is in response to the Petition Under 37 CFR § 1.182, filed June 8, 2011, to change an inventor's name due to marriage.

The MPEP 605.04(c), Inventor Changes Name, provides

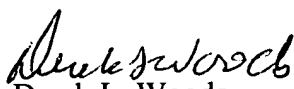
In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order.

The petition is hereby granted.

The name change of inventor Baird Smith to Baird Mallory, is hereby acknowledged, and the name Baird Mallory has been entered and made of record in the above-identified application.

The file is being referred to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

  
Derek L. Woods  
Attorney  
Office of Petitions





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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
10/825,729	04/16/2004	3686	804	PA2627US	26	2

**CONFIRMATION NO. 8824**

## CORRECTED FILING RECEIPT



OC00000048881344

Date Mailed: 07/20/2011

22830  
CARR & FERRELL LLP  
120 CONSTITUTION DRIVE  
MENLO PARK, CA 94025

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

### Applicant(s)

Baird Mallory, Monte Sereno, CA;

**Power of Attorney:** The patent practitioners associated with Customer Number 22830

### Domestic Priority data as claimed by applicant

This appln claims benefit of 60/463,999 04/18/2003

**Foreign Applications** (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.)

**If Required, Foreign Filing License Granted:** 06/25/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/825,729**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**\*\* SMALL ENTITY \*\***



**Title**

INTEGRATED POINT-OF-CARE SYSTEMS AND METHODS

**Preliminary Class**

705

**PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES**

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

**LICENSE FOR FOREIGN FILING UNDER**

**Title 35, United States Code, Section 184**

**Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as



set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).





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DWW Feb-11

TOWNSEND AND TOWNSEND AND CREW LLP/AMO  
TWO EMBARCADERO CENTER, EIGHTH FLOOR  
SAN FRANCISCO CA 94111

**MAILED**

**FEB 10 2011**

**OFFICE OF PETITIONS**

In re Application of :  
Dai et al. :  
Application Number: 10/825,864 : DECISION ON PETITION  
Filed: 04/16/2004 :  
Attorney Docket Number: 018158- :  
023010US :

This is a decision in reference to the petition under 37 CFR 1.53(e) filed on December 20, 2004, which is treated as a petition requesting that the above-identified application be accorded a filing date of April 16, 2004, including one (1) sheet of drawings containing Figures 17A, 17B, and 17C, as a part of the original disclosure.

The petition is granted.

The application was filed on April 16, 2004.

Accordingly, on October 18, 2004, the Office of Patent Application Processing (OPAP) mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date of April 16, 2004, but that, Figures 17A, 17B, and 17C described in the specification appeared to have been omitted from the application. An executed oath or declaration, the statutory basic filing fee, additional claim fee(s), and a surcharge for their late filing, were also required.

In response, on December 20, 2004, the present petition was filed, along with 26 sheets of drawings, including one (1) sheet of drawings containing Figures 17A, 17B, and 17C, the statutory basic filing fee, additional claim fees, an oath or declaration, and the surcharge for their late filing. Petitioners argue that one (1) sheet of drawing containing Figures 17A, 17B, and 17C was filed with the other application papers on April 16, 2004, but was subsequently misplaced in the U.S. Patent and Trademark



Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an "Office date" stamp of "041604" which includes the above-referenced application number, and identifies the application by the first named inventor's last name, attorney docket number, and invention title, and acknowledges receipt of, *inter alia*, "Drawings (26 pages)." Petitioners request that the application, including one (1) sheet of drawings containing Figures 17A, 17B, and 17C, be accorded a filing date of April 16, 2004.

A review of the record reveals that 25 sheets of drawings containing Figures 1, 2, 3, 3A, 4, 5, 6, 7, 8, 8A, 9A, 9B, 9C, 10A, 11A, 12A, 12B, 13A, 13B, 13C, 13D, 13E, 14A, 14B, 14C, 14D, 15A, 15B, 15C, 15D, 15E, 15F, 16A, 16B, 16C, 16D, 16E, 16F, 18A, 18B, 18C, 18D, 18E, 18F, 19A, 19B, 20, 21, 22, 23A, and 23B were received on April 16, 2004. No sheet of drawings containing Figures 17A, 17B, and 17C is located among the papers received on that date. However, the evidence is convincing that the application papers deposited on April 16, 2004, included one (1) sheet of drawings containing Figures 17A, 17B, and 17C, which was subsequently misplaced in the Office. Therefore, the application, including one (1) sheet of drawings containing Figures 17A, 17B, and 17C, is entitled to a filing date of April 16, 2004.

The Notice to File Missing Parts of Nonprovisional Application mailed on October 18, 2004, is vacated to the extent that it stated that Figured 17A, 17B, and 17C appeared to have been omitted from the application.

In view of the above, the petition is granted. As the petition was not due to an error on the part of petitioner, no petition fee is due.

The application will be reprocessed with a filing date of **April 16, 2004**, using the drawings present on filing, and the copy of the copy of one (1) sheet of drawings containing Figure 11 described in the specification, and supplied with the present petition as a part of the original disclosure.

The application is being returned to the Office of Patent Application Processing for further processing with a filing date of April 16, 2004, using the application papers filed on that date and the copy of one (1) sheet of drawings containing Figures 17A, 17B, and 17C supplied with the present petition, and for an indication in Office records that 26 sheets of drawings were



Application No. 10/825,864

3

present on filing. The application will then be referred to Technology Center Art Unit 3769 for further processing.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

A handwritten signature in black ink, appearing to read "D. Wood", is positioned above the typed name.

Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7034193	2006-04-25	10826052	2004-04-15	RD 03009

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

	Fee	Code
<input checked="" type="radio"/> 3 ½ year		(1551)
<input type="radio"/> 7 ½ year		(1552)
<input type="radio"/> 11 ½ year		(1553)

### Small Entity

	Fee	Code
<input type="radio"/> 3 ½ year		(2551)
<input type="radio"/> 7 ½ year		(2552)
<input type="radio"/> 11 ½ year		(2553)

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2012-02-09
Name	Kendal M. Sheets	Registration Number	47077
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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In re Patent No. 7034193  
Issue Date: April 25, 2006  
Application No. 10826052  
Filed: April 15, 2004  
Attorney Docket No. RD 03009

:

:DECISION GRANTING PETITION  
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed February 9, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 9, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.





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Henry Hadad  
Bristol-Myers Squibb Company  
Patent Department  
PO Box 4000  
Princeton NJ 08543-4000

**MAILED**  
**AUG 26 2011**  
**OFFICE OF PETITIONS**

In re Patent No. 7,557,143	:	
Ryono et al.	:	DECISION UPON REMAND AND
Issue Date: July 7, 2009	:	RECONSIDERATION OF
Application No. 10/826,100	:	PATENT TERM ADJUSTMENT
Filed: April 15 2004	:	AND NOTICE OF INTENT
Attorney Docket No. LA0120 NP	:	TO ISSUE CERTIFICATE OF
Title: Thyroid Receptor Ligands	:	CORRECTION
	:	

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by nine hundred and sixty-five (965) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by nine hundred and sixty-five (965) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/



Patent No. 7,557,143

Application No. 10/826,100

Page 2

Kery A. Fries

Senior Legal Advisor Attorney

Office of Patent Legal Administration

Office of Associate Commissioner

For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,557,143 B2

DATED : July 7, 2009

**DRAFT**

INVENTOR(S) : Ryono et al.

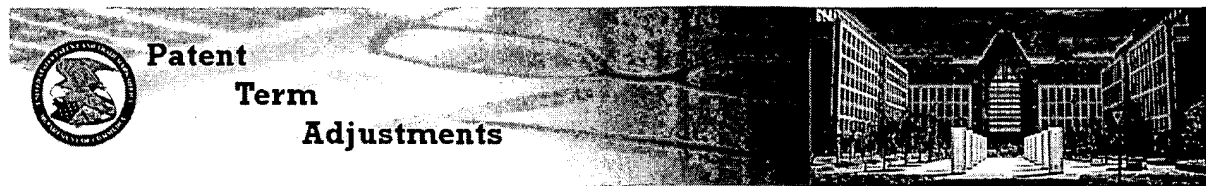
It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 653 days

Delete the phrase "by 653 days" and insert – by 965 days--





PTA/PTE Information    Patent Term Adjustment    Patent Term Extension

Application Number\*: 10826100    Search    Explanation of PTA Calculation    Explanation of PTE Calculation

PTA Calculations for Application: 10826100

Application Filing Date	04/15/2004	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	07/07/2009	Non-Overlapping USPTO Delays:	682
A Delays	682	PTO Manual Adjustment	312
B Delays	0	Applicant Delay (APPL)	29
C Delays	0	Total PTA (days)	965

\* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
89	08/22/2011		P028	Adjustment of PTA Calculation by PTO	312	0	
77	07/07/2009		PTAC	Patent Issue Date Used in PTA Calculation		0	
77.5	06/17/2009	04/15/2007	PTA36M	PTA 36 Months	0	0	
76	05/25/2009		EFDC	Export to Final Data Capture		0	
74	05/22/2009		D1935	Dispatch to FDC		0	
73	05/22/2009		PILS	Application Is Considered Ready for Issue		0	
72	05/21/2009		N084	Issue Fee Payment Verified		0	
71	05/21/2009		IFEE	Issue Fee Payment Received		0	
75	05/20/2009		FIDC	Finished Initial Data Capture		0	
70	03/03/2009		EIDC	Export to Initial Data Capture		0	
67	02/26/2009	11/17/2008	MN/=.	Mail Notice of Allowance	101	60	
66	02/20/2009		IREV	Issue Revision Completed		0	
65	02/20/2009		DVER	Document Verification		0	
64	02/20/2009		N/=.	Notice of Allowance Data Verification Completed		0	
63	02/17/2009		CNTA	Allowability Notice		0	
61	12/03/2008		FWDX	Date Forwarded to Examiner		0	
60	07/17/2008		A...	Response after Non-Final Action		0	
59	04/26/2008		ELC_RVW	Electronic Review		0	
58	04/25/2008		EML_NTF	Email Notification		0	
57	04/25/2008		MCTNF	Mail Non-Final Rejection		0	
56	04/23/2008		CTNF	Non-Final Rejection		0	
52	04/17/2008		FWDX	Date Forwarded to Examiner		0	
50	04/17/2008		FWDX	Date Forwarded to Examiner		0	
48	04/17/2008		ABN9	Disposal for a RCE / CPA / R129		0	
51	04/03/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0	
49	04/03/2008	03/07/2008	RCEX	Request for Continued Examination (RCE)		27	36
47	04/03/2008		XT/G	Request for Extension of Time - Granted		0	
46	04/03/2008		BRCE	Workflow - Request for RCE - Begin		0	
45	03/20/2008		EML_NTR	Email Notification		0	
44	03/18/2008		MCTAV	Mail Advisory Action (PTOL - 303)		0	
43	03/10/2008		CTAV	Advisory Action (PTOL-303)		0	
40	03/01/2008		FWDX	Date Forwarded to Examiner		0	
39	02/13/2008		A.NE	Amendment after Final Rejection		0	
38	12/08/2007		ELC_RVW	Electronic Review		0	
37	12/07/2007		EML_NTF	Email Notification		0	
36	12/07/2007	10/25/2007	MCTFR	Mail Final Rejection (PTOL - 326)	43	33	
35	12/04/2007		CTFR	Final Rejection		0	
34	12/04/2007		FWDX	Date Forwarded to Examiner		0	
33	06/25/2007	06/23/2007	A...	Response after Non-Final Action		2	32
32	03/23/2007		MCTNF	Mail Non-Final Rejection		0	
31	03/19/2007		CTNF	Non-Final Rejection		0	
27	02/15/2007		FWDX	Date Forwarded to Examiner		0	
26	02/05/2007		ELC	Response to Election / Restriction Filed		0	
25	02/05/2007		XT/G	Request for Extension of Time - Granted		0	
24	12/05/2006	06/15/2005	MCTRS	Mail Restriction Requirement	538	-1	
23	11/30/2006		CTRS	Restriction/Election Requirement		0	
22	10/14/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete		0	
21	10/14/2005		DOCK	Case Docketed to Examiner in GAU		0	
30	02/04/2005		IDSC	Information Disclosure Statement considered		0	
20.7	02/04/2005		M844	Information Disclosure Statement (IDS) Filed		0	
20	02/04/2005		WIDS	Information Disclosure Statement (IDS) Filed		0	
29	10/21/2004		IDSC	Information Disclosure Statement considered		0	
18	10/21/2004		RCAP	Reference capture on IDS		0	
17.7	10/21/2004		M844	Information Disclosure Statement (IDS) Filed		0	
17	10/21/2004		WIDS	Information Disclosure Statement (IDS) Filed		0	



14	10/21/2004	WROIPE	Application Return from OIPE	0
13	10/21/2004	ROIPE	Application Return TO OIPE	0
12	09/29/2004	WROIPE	Application Return from OIPE	0
11	09/29/2004	COMP	Application Is Now Complete	0
10	09/29/2004	ROIPE	Application Return TO OIPE	0
9	09/29/2004	OIPE	Application Dispatched from OIPE	0
8	09/29/2004	COMP	Application Is Now Complete	0
28	09/27/2004	IDSC	Information Disclosure Statement considered	0
16	09/27/2004	RCAP	Reference capture on IDS	0
15.7	09/27/2004	M844	Information Disclosure Statement (IDS) Filed	0
15	09/27/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
7	09/09/2004	ADDFLFE	Additional Application Filing Fees	0
6	09/09/2004	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant	0
5	06/28/2004	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
4	05/18/2004	L194	Cleared by OIPE CSR	0
3	05/18/2004	CLSS	CASE CLASSIFIED BY OIPE	0
2	04/25/2004	SCAN	IFW Scan & PACR Auto Security Review	0
1	04/15/2004	IEXX	Initial Exam Team nn	0

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P.O. BOX 69  
KLAMATH RIVER CA 96050-0069

**MAILED**

DEC 14 2010

In re Application of	:	<b>OFFICE OF PETITIONS</b>
Kirmoto, et al.	:	<b>DECISION DISMISSING PETITION</b>
Application No. 10/826,173	:	<b>UNDER 37 CFR 1.183</b>
Filed: April 16, 2004	:	
Atty. Dkt. No. SIC-04-021	:	

This is a decision on the petition filed August 30, 2010 under 37 CFR 1.183 to waive the requirements of 37 CFR 1.172. Receipt is acknowledged of the required petition fee of \$400.00.

Petitioners request waiver of the requirement that all joint inventors sign any supplemental declaration in a broadening reissue application.

The petition under 37 CFR 1.183 is dismissed.

**BACKGROUND**

1. U.S. Patent No. 6,557,671 (the '671 patent) issued to Kirmoto, et al. on May 6, 2003.
2. A broadening reissue application (the present application) was filed on April 16, 2004, for the reissue of the '671 patent, and it was assigned application number 10/826,173. The reissue declaration to support the filed reissue application was signed by all of the joint inventors.
3. A supplemental reissue declaration under 37 CFR 1.175(b)(1) was filed August 19, 2010, along with the present petition under 37 CFR 1.183 requesting acceptance of the supplemental reissue declaration signed by less than all of the joint inventors.
4. The petition is accompanied by a supplemental reissue application declaration by the inventors, signed by two of the three inventors named in the application. The declaration is not signed by joint inventor Yamahita. It is for this supplemental declaration that the petition requests acceptance, via suspension or waiver of the regulations.
5. The petition proffers a showing for the purpose of establishing that the non-signing inventor is unavailable to sign the supplemental reissue declaration. The petition sets forth (a) the efforts made on behalf of the assignee to contact the non-signing inventor and obtain the requisite signature on the supplemental declaration, and (b) the lack of success of such efforts.
6. Petitioners assert that the inventor cannot be found and is not available at his last known address.



### DECISION

35 U.S.C. 251, which is directed to reissue, does not address the signature requirements of a declaration in reissue. 37 CFR 1.172 requires that a reissue declaration be made (and signed) by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. 37 CFR 1.175(b)(1), requires that:

"For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit a supplemental oath or declaration stating that every such error arose without any deceptive intention on the part of the applicant."

37 CFR 1.175(b)(1), taken in conjunction with 37 CFR 1.172, requires a supplemental declaration to be signed by all inventors. This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signature of the inventor(s).

37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested a waiver of the 37 CFR 1.172 requirement that the 37 CFR 1.175 supplemental declaration be signed by all of the inventors.

The petition is not supported by any supplemental evidence to establish the unavailability of the non-signing inventor.

To the extent that petitioners continue to assert that the non-signing inventor cannot be located, petitioners are to submit supporting documentation that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, human resource records, telephone directories, etc. should be undertaken in regions where it is suspected the non-signing inventor may reside. See MPEP 409.03(d). Petitioner should reference and supply evidence of any such searches in a renewed petition.

### CONCLUSION

In view thereof, the petition under 37 CFR 1.183 is DISMISSED.

Any request for reconsideration under 37 CFR 1.183 must be submitted within two months of the mail date of this decision. Extensions of time pursuant to 37 CFR 1.136 are available.



Further correspondence with respect to this matter should be addressed as follows:

By mail:                   Mail Stop PETITIONS  
                              Commissioner for Patents  
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By fax:                   (571) 273-8300  
                              ATTN: Office of Petitions

Registered users of EFS-Web may alternatively submit further correspondence with respect to this matter via EFS-Web.<sup>1</sup>

Telephone inquiries concerning this decision should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3215.

/Kenneth M. Schor/

Kenneth M. Schor  
Senior Legal Advisor  
Office of Patent Legal Administration

Kenpet8  
12-10-10

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<sup>1</sup> <https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html>





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**MAILED**

**MAR 24 2011**

**OFFICE OF PETITIONS**

**OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.**  
**1940 DUKE STREET**  
**ALEXANDRIA VA 22314**

In re Patent No. 7,179,527  
Issue Date: February 20, 2007  
Application No. 10/826,290  
Filed: April 19, 2004  
Attorney Docket No. 252002US2CONT

ON PETITION

This is a decision on the petitions filed April 29, 2009 to correct inventorship under 37 CFR 1.324 and 37 CFR 1.182 which is being treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.324(b)(2).

The petition under 37 CFR 1.183 is dismissed at being moot.

The petition under 37 CFR 1.324 is granted.

The patented file is being forwarded to Certificates of Correction Branch for issuance of a certificate of correction naming only the actual inventors:

Kazuo Sato  
Naoki Taneda  
Makoto Fukawa  
Nobutaka Aomine  
Mika Kambe  
Yukio Yoshikawa

The petition filed under 37 CFR 1.183 to waive the requirements of 37 CFR 1.324(b)(2) is not required and is dismissed as being moot. The petition under 37 CFR 1.324 is in compliance with 37 CFR 1.42 as the legal representative's statement is sufficient. The petition fee is being refunded to petitioners' credit card account.



Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

A handwritten signature in black ink, appearing to be 'CF', with a long horizontal stroke extending to the right.

Carl Friedman  
Petitions Examiner  
Office of Petitions





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MAYER BROWN, LLP  
PO BOX 2828  
CHICAGO, IL 60690

**MAILED**

**AUG 30 2010**

**OFFICE OF PETITIONS**

In re Application of  
Hun-Yang Park  
Application No. 10/826,383  
Filed: April 19, 2004  
Attorney Docket No. P69617USO

DECISION ON PETITION  
TO WITHDRAW  
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 5, 2010.

The request is **NOT APPROVED**.

The Office will not decide request to withdraw from representation as practitioner of record which are filed after the patent has issued. Sections 2540 and 2542 of the Manual of Patent Procedures (MPEP) explain that a practitioner does not have to request permission to withdraw as practitioner of record under 37 CFR 1.36 in order to change the address in a patented filed and to directed notices, receipts and other communications relating to maintenance fees. These requests will be placed in the application but will not be treated on their merits. The above mentioned sections of the MPEP recommend the designation of a fee address or submission of a change in correspondence address in the patented file for directing correspondence relating to maintenance fee payments and other correspondences after issuance. See Form PTO/SB/47, entitled, "*Fee Address*" *Indication Form* and Form PTO/SB/123, entitled, *Change of Correspondence Address, Patent*

Accordingly, the request to withdraw from record cannot be approved because the request does not include an acceptable current correspondence address for future communications from the Office.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/  
April M. Wise  
Petitions Examiner  
Office of Petitions



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7073350	2006-07-11	10826438	2004-04-15	100325.0137US2

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/>            | 7 ½ year  | (1552) |
| <input type="radio"/>            | 11 ½ year | (1553) |

### Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/> | 7 ½ year  | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert D. Fish/	Date (YYYY-MM-DD)	2010-09-01
Name	Robert D. Fish	Registration Number	33880
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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In re Patent No. 7073350  
Issue Date: July 11, 2006  
Application No. 10826438  
Filed: April 15, 2004  
Attorney Docket No. 100325.0137US2

:

:DECISION GRANTING PETITION  
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed September 1, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 1, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Paper No.:** \_\_\_\_\_

**DATE** : March 3, 2011

**TO SPE OF** : ART UNIT 1632

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 10826466 Patent No.: 7279328

CofC mailroom date: April 2, 2008

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**  
**Randolph Square – 9D10-A**  
**Palm Location 7580**

Valerie Jackson

\_\_\_\_\_  
Certificates of Correction Branch  
703-756-1814 \_\_\_\_\_

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

**Specify below which changes do not apply.**

☐ **Denied**

**State the reasons for denial below.**

**Comments:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

/Peter Paras/

SPE Art Unit 1632

**SPE**

**Art Unit**





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ALAN R. LOUDERMILK  
LOUDERMILK & ASSOCIATES  
P.O. BOX 3607  
LOS ALTOS CA 94024-0607

MAILED  
OCT 21 2010  
OFFICE OF PETITIONS

In re Patent No. 6,990,181  
Issued: January 24, 2006  
Application No. 10/826,485  
Filed: April 16, 2004  
Attorney Docket No. DAA-01F

ON PETITION

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski  
Petitions Examiner  
Office of Petitions

cc: Kendal M. Sheets  
CPA Global  
2318 Mill Road, 12<sup>th</sup> Floor  
Alexandria, VA 22314





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WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI LLP  
20333 Tomball Parkway  
SUITE 600  
HOUSTON TX 77070

**MAILED**

**AUG 27 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,636,489 : DECISION ON REQUEST  
Zimmer : FOR  
Issue Date: December 22, 2009: RECONSIDERATION OF  
Application No. 10/826,596 : PATENT TERM ADJUSTMENT  
Filed: April 16, 2004 : and  
Atty Docket No. 119-0035US : NOTICE OF INTENT TO ISSUE  
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 8, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, five hundred and fifteen (1,515) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by **one thousand, five hundred and fourteen (1,514) days** is **GRANTED to the extent indicated herein<sup>1</sup>**.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

<sup>1</sup> The appeal period excluded from the "B" delay period is 168 days, not 167. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." *Id.* Thus, in this instance, the period of appeal excluded from the "B" delay period is 168 days with said period beginning August 12, 2008, and ending January 26, 2009.



The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, five hundred and fourteen(1,514)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions

Enclosure:    Copy of DRAFT Certificate of Correction



**DRAFT COPY**

UNITED STATES PATENT AND TRADEMARK OFFICE

**CERTIFICATE OF CORRECTION**

PATENT : 7,636,489 B2

DATED : Dec. 22, 2009

INVENTOR(S) : Zimmer

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (981) days

Delete the phrase "by 981 days" and insert – by 1514 days--





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500 WEST MADISON STREET  
SUITE 3400  
CHICAGO IL 60661

**MAILED**  
**MAR 13 2012**  
**OFFICE OF PETITIONS**

In re Application :  
Olive :  
Application No. 10/826,641 : PATENT TERM ADJUSTMENT  
Filing or 371(c) Date: April 15, 2004 :  
Dkt. No.: 18313US01 :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed February 7, 2012.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 138 days, not zero days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant argues that the application is entitled to an adjustment of 146 days, beginning on September 24, 2010, the date that a Notice of Appeal was filed, and ending February 16, 2011, the date that the non-final Office action was mailed. Applicant references the proposed rulemaking entitled Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements, 76 FR 18990 (April 6, 2011).

Applicant's arguments have been considered, but are not persuasive. The relief requested is not supported by current rules and regulations. In view thereof, no change to the patent term adjustment will be made.

It is noted that the Office issued a Notice of proposed rulemaking entitled Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements, 76 FR 18990 (April 6, 2011). To the extent that the final rule on Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review revises the interpretation of appellate review applied in this decision, applicant is given one (1) month or thirty (30) days, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification



mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).


The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

*/ALESIA M. BROWN/*

Alesia M. Brown  
Attorney Advisor  
Office of Petitions



<b>Issue Classification</b> 	<b>Application/Control No.</b>		<b>Applicant(s)/Patent under Reexamination</b>	
	10/826,654		NADEAU ET AL.	
	<b>Examiner</b>		<b>Art Unit</b>	
	FRANK W. LU		1634	

ISSUE CLASSIFICATION									
ORIGINAL					CROSS REFERENCE(S)				
CLASS		SUBCLASS			CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)			
435		91.2			435	6	7.1	91.1	
INTERNATIONAL CLASSIFICATION					536	24.3	24.33		
C	1	2	P	19/34	530	350			
C	1	2	Q	1/68					
G	0	1	N	33/53					
C	0	7	H	21/04					
C	0	7	K	1/00					
(Assistant Examiner) (Date)					/Frank W Lu/ 12/3/2010 (Primary Examiner) (Date)				
(Legal Instruments Examiner) (Date)									
					Total Claims Allowed: 28				
					O.G. Print Claim(s) 1				
					O.G. Print Fig. 1J				

<input type="checkbox"/> Claims renumbered in the same order as presented by applicant				<input type="checkbox"/> CPA				<input type="checkbox"/> T.D.				<input type="checkbox"/> R.1.47			
Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
1	1		31		61		91		121		151		181		
2	2		32		62		92		122		152		182		
3	3		33		63		93		123		153		183		
4	4		34		64		94		124		154		184		
5	5		35		65		95		125		155		185		
6	6		36		66		96		126		156		186		
7	7		37		67		97		127		157		187		
8	8		38		68		98		128		158		188		
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21	24		54		84		114		144		174		204		
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23	26		56		86		116		146		176		206		
24	27		57		87		117		147		177		207		
	28		58		88		118		148		178		208		
25	29		59		89		119		149		179		209		
26	30		60		90		120		150		180		210		





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**MAILED**

**SEP 21 2010**

In re Application of :  
Wybenga et al. :  
Application No. 10/826,668 :  
Filed: April 16, 2004 :  
Attorney Docket No. :  
2003.09008BN0 :  
Title: APPARATUS AND METHOD FOR :  
PERFORMING SECURITY AND :  
CLASSIFICATION IN A :  
MULTIPROCESSOR ROUTER :

**OFFICE OF PETITIONS**

ON APPLICATION FOR  
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. 1.705(b)" filed July 19, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand one hundred sixty-eight (1,168) days, not eight hundred fifty-one (851) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of



issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee<sup>1</sup>.

---

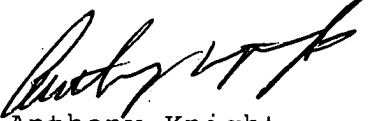
<sup>1</sup> For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

A handwritten signature in black ink, appearing to read 'Anthony Knight', is written over the printed name.

Anthony Knight  
Director  
Office of Petitions





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Alexandria, VA 22313-1450  
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HEWLETT-PACKARD COMPANY  
INTELLECTUAL PROPERTY ADMINISTRATION  
3404 E. HARMONY ROAD  
MAIL STOP 35  
FORT COLLINS, CO 80528

**MAILED**

**SEP 21 2010**

In re Application of  
Jim R. Nielsen et al  
Application No. 10/827,056  
Filed: April 19, 2004  
Attorney Docket No. 200901605-1

**OFFICE OF PETITIONS**

**ON PETITION**

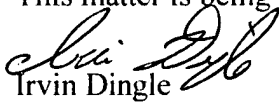
This is a decision on the petition under 37 CFR 1.137(b), filed April 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 20, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 21, 2009.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2448 for further processing.

  
Irvin Dingle  
Petitions Examiner  
Office of Petitions





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DIW Mar-12

MICHAEL A. GUTH  
2-2905 EAST CLIFF DRIVE  
SANTA CRUZ CA 95062

**MAILED**

**MAR 13 2012**

**OFFICE OF PETITIONS**

In re Patent No. 7,183,237 :  
Issue Date: 02/27/2007 :  
Application Number: 10/827,110 : ON PETITION  
Filing Date: 04/19/2004 :  
Attorney Docket Number: 1019-US :  
:

This is a decision on the petition under 37 CFR 1.378(c), filed on January 31, 2012, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on February 27, 2011, for failure to timely pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of correspondence address (copy of form enclosed) should be filed if the correspondence address needs to be updated.



Patent No. 7,183,237

2

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.



Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions

Cc:

DAVID BLUME  
343 SOQUEL DR., #191  
SANTA CRUZ CA 95062

Encl: PTO/SB/123





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Rambus Inc.  
c/o Ann Williams  
4440 El Camino Real  
Los Altos, CA 94022

**MAILED**

**OCT 21 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,346,722  
Issue Date: March 18, 2008  
Application No. 10/827,360  
Filed: April 20, 2004  
Patentee(s): Richard Carl Phelps, et. al.

**NOTICE**

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on August 27, 2010.

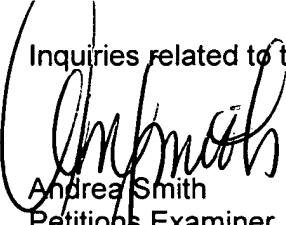
The request is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Kenneth B. Leffler appearing on the request shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee paid must be submitted at the large entity rate.

A courtesy copy of this decision is being mailed to the address given in the present request. Thereafter, all future communications will be mailed solely to the address of record until otherwise instructed.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

  
Andrea Smith  
Petitions Examiner  
Office of Petitions

cc: Kenneth B. Leffler  
Potomac Patent Group, PLLC  
P.O. Box 270  
Fredericksburg, VA 22404





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SNR DENTON US LLP  
P.O. BOX 061080  
CHICAGO IL 60606-1080

**MAILED**

**FEB 14 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,659,448 : DECISION ON REQUEST FOR  
Ahrens, et al. : RECONSIDERATION OF  
Issue Date: February 9, 2010 : PATENT TERM ADJUSTMENT AND  
Application No. 10/827,659 : NOTICE OF INTENT TO ISSUE  
Filed: April 19, 2004 : CERTIFICATE OF CORRECTION  
Attorney Docket No. MONS:123US:

This is a decision on the petition filed on May 21, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred and sixty-four (164) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **one hundred and forty-eight (148) days**.

A review of the application file history prompted by patentees' assertion reveals that the period of adjustment of 55 days entered for the filing of an examiner's answer on November 28, 2007, is unwarranted. The record reveals that the appeal brief filed June 4, 2007, was determined to be non-compliant with 37 CFR 41.37. An appeal brief was filed September 12, 2007, that was determined to be compliant with 37 CFR 41.37. The period of adjustment pursuant to 37 CFR 1.702(a)(2) and 37 CFR 1.703(a)(4), if any, is therefore properly calculated from the day after the date the four months from the date the appeal brief in compliance with 37 CFR 41.37 was filed, January 13, 2008. The examiner's answer was mailed November 28, 2007. Accordingly, no period of adjustment is warranted under 37 CFR



In re Patent No. 7,659,448      Application No. 10/827,659      2

1.703(a)(4) in this instance. The period of adjustment of 55 is being removed accordingly.

Further review of the file history reveals that the period of "B" delay is 42 days, not 58 days as patentees's assert. The maximum period of "B" delay is 692 days, beginning from April 20, 2007, and ending March 11, 2009—the day before the Request for Continued Examination was filed. Excluded from this period is a period of 650 days that is an appeal period which began on April 4, 2007 (and includes that day) and ending January 12, 2009, with the mailing of the denial decision by the Board of Patent Appeals and Interferences. Accordingly, the "B" period of 692 days is reduced by 650 days. The net adjustment for the patent term for the "B" period is 42 days (692-650).

In view thereof, the revised patent term adjustment is 148 days (42 days of "B" delay + 165 days of "A" delay - 0 days of overlap - 59 days of applicant delay.)

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Deposit account 19-3140 will be charged \$200.00 for the fee set forth in 37 CFR 1.18(e). No additional fee is due.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred forty-eight (148) days**.

The address cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address cited on the petition, all future correspondence will be mailed solely to the address cited on the petition until appropriate written instructions to the contrary are received.



In re Patent No. 7,659,448      Application No. 10/827,659      3

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions

Enclosure:    Copy of DRAFT Certificate of Correction

cc:  
Marshall P. Byrd  
Sonnenschein Nath & Rosenthal, LLP  
2000 McKinney Suite 1900  
Dallas, TX 75201



**DRAFT COPY**

UNITED STATES PATENT AND TRADEMARK OFFICE

**CERTIFICATE OF CORRECTION**

PATENT : 7,659,448 B2

DATED : Feb. 9, 2010

INVENTOR(S) : Ahrens, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (161) days

Delete the phrase "by 161 days" and insert -- by 148 days--



**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Jeffrey Ahrens <i>et al.</i>	Group Art Unit: 1638
Pat. No.: 7,659,448 (Appln. No. 10/827,659)	Examiner: Kumar, Vinod
Issued: February 9, 2010 (Filed: April 19, 2004)	Atty. Dkt. No.: MONS:123US
For: PLANT REGULATORY SEQUENCES FOR SELECTIVE CONTROL OF GENE EXPRESSION	Conf. No. 3005

**REQUEST TO RECONSIDER DECISION ON PTA DATED FEBRUARY 14, 2011**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

On February 14, 2011, the PTO mailed a Decision on Applicants' Request for Recalculation of PTA, a copy of which is attached hereto. This is believed to contain an error and thus reconsideration is requested.

Specifically, the Decision found Applicants entitled to 42 days of "B" delay rather than the requested 58 days. As set forth on page 2 of the Decision in the second full paragraph, this was determined by first calculating the maximum "B" delay as 692 days, corresponding to the period beginning on April 20, 2007 and ending on March 11, 2009, and then subtracting from this the period in which the case was on appeal in the amount of 650 days, identified as the period from April 4, 2007 to January 12, 2009. The error is that this calculation subtracts from the maximum period of "B" delay time that did not actually fall within the "B" period.



Specifically, this incorrectly subtracted for events that **occurred outside of the “B” period.**

Here, the appeal began on April 4, 2007, whereas the “B” period began April 20, 2007. Any subtraction from the PTA accumulated for “B” delay should therefore have similarly not begun to accrue until April 20, 2007. That is, Applicants can not begin losing PTA before they can earn it, and rather there is only properly a set-off against PTA accumulation for Applicant delay within the period that is otherwise PTA-eligible. As such, the PTA attributable to “B” delay should be 58 days and an indication of this is respectfully requested.

This paper is filed within one month of the Decision mailed on February 14, 2011 and no fees are believed due in connection with this paper.

SNR Denton US LLP  
2000 McKinney, Suite 1900  
Dallas, Texas 75201  
(214) 259-1860

Date: March 11, 2011

Respectfully submitted,  
/Robert E. Hanson /  
Robert E. Hanson  
Reg. No. 42,628  
Attorney for Applicant





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FEB 14 2011

OFFICE OF PETITIONS

In re Patent No. 7,659,448 : DECISION ON REQUEST FOR  
Ahrens, et al. : RECONSIDERATION OF  
Issue Date: February 9, 2010 : PATENT TERM ADJUSTMENT AND  
Application No. 10/827,659 : NOTICE OF INTENT TO ISSUE  
Filed: April 19, 2004 : CERTIFICATE OF CORRECTION  
Attorney Docket No. MONS:123US:

This is a decision on the petition filed on May 21, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred and sixty-four (164) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **one hundred and forty-eight (148) days**.

A review of the application file history prompted by patentees' assertion reveals that the period of adjustment of 55 days entered for the filing of an examiner's answer on November 28, 2007, is unwarranted. The record reveals that the appeal brief filed June 4, 2007, was determined to be non-compliant with 37 CFR 41.37. An appeal brief was filed September 12, 2007, that was determined to be compliant with 37 CFR 41.37. The period of adjustment pursuant to 37 CFR 1.702(a)(2) and 37 CFR 1.703(a)(4), if any, is therefore properly calculated from the day after the date the four months from the date the appeal brief in compliance with 37 CFR 41.37 was filed, January 13, 2008. The examiner's answer was mailed November 28, 2007. Accordingly, no period of adjustment is warranted under 37 CFR



In re Patent No. 7,659,448      Application No. 10/827,659      2

1.703(a)(4) in this instance. The period of adjustment of 55 is being removed accordingly.

Further review of the file history reveals that the period of "B" delay is 42 days, not 58 days as patentees's assert. The maximum period of "B" delay is 692 days, beginning from April 20, 2007, and ending March 11, 2009--the day before the Request for Continued Examination was filed. Excluded from this period is a period of 650 days that is an appeal period which began on April 4, 2007 (and includes that day) and ending January 12, 2009, with the mailing of the denial decision by the Board of Patent Appeals and Interferences. Accordingly, the "B" period of 692 days is reduced by 650 days. The net adjustment for the patent term for the "B" period is 42 days (692-650).

In view thereof, the revised patent term adjustment is 148 days (42 days of "B" delay + 165 days of "A" delay - 0 days of overlap - 59 days of applicant delay.)

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Deposit account 19-3140 will be charged \$200.00 for the fee set forth in 37 CFR 1.18(e). No additional fee is due.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred forty-eight (148) days**.

The address cited on the petition differs from the address of record. Although a courtesy copy of this decision is being mailed to the address cited on the petition, all future correspondence will be mailed solely to the address cited on the petition until appropriate written instructions to the contrary are received.



In re Patent No. 7,659,448    Application No. 10/827,659    3

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions

Enclosure:    Copy of DRAFT Certificate of Correction

cc:  
Marshall P. Byrd  
Sonnenschein Nath & Rosenthal, LLP  
2000 McKinney Suite 1900  
Dallas, TX 75201



**DRAFT COPY**

UNITED STATES PATENT AND TRADEMARK OFFICE

**CERTIFICATE OF CORRECTION**

PATENT : 7,659,448 B2

DATED : Feb. 9, 2010

INVENTOR(S) : Ahrens, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (161) days

Delete the phrase "by 161 days" and insert -- by 148 days--





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SNR DENTON US LLP  
P.O. BOX 061080  
CHICAGO IL 60606-1080

In re Patent No. 7,659,448 : DECISION ON REQUEST  
Ahrens, et al. : FOR  
Issue Date: February 9, 2010 : RECONSIDERATION OF  
Application No. 10/827,659 : PATENT TERM ADJUSTMENT  
Filed: April 19, 2004 :  
Atty. Docket No. MONS:123US :

This is a decision on the petition filed on March 11, 2011, which is being treated as a renewed petition under 37 CFR 1.705(d).

This renewed petition is **DISMISSED**.

Patentees assert that it is improper for the USPTO to exclude from the "B" delay adjustment under 35 U.S.C. 154(b)(1)(B) some of the period from the filing of a Notice of Appeal to the decision by the Board of Patent Appeals and Interferences appellate review period that was excluded from the "B". More specifically, patentees' state:

Specifically, the Decision found Applicants entitled to 42 days of "B" delay rather than the requested 58 days. As set forth on page 2 of the Decision in the second full paragraph, this was determined by first calculating the maximum "B" delay as 692 days, corresponding to the period beginning on April 20, 2007, and ending on March 11, 2009, and then subtracting from this the period in which the case was on appeal in the amount of 650 days, identified as the period from April 4, 2007, to January 12, 2009. The error is that this calculation subtracts from the maximum period of "B" delay time that did not actually fall within the "B" period. Specifically, this incorrectly subtracted for events that occurred outside the "B" period.



*Excerpt taken from "Request to Reconsider Decision on PTA  
Dated February 14, 2011, filed March 11, 2011, pgs 1-2.*

Patentees' argument has been considered, but is not persuasive. Pursuant to 35 U.S.C. § 154(B)(ii), the Office is required to reduce the three-year application pendency guarantee by "any time consumed by appellate review by the Board of Patent Appeals and Interferences." As such, the Office is required to reduce any accorded "B" delay by the entire number of days which were consumed by Appellate review, notwithstanding if any portion of the period consumed by appellate review occurred prior to the beginning of "B" delay period.

No change to the revised patent term adjustment is warranted.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions





UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
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Date : 12/23/2010  
Patent No. : 7,805,313 B2  
Serial No. : 10/827,900  
Inventor(s) : Faller et al.  
Issued : September 28, 2010  
Title : **FREQUENCY-BASED CODING OF CHANNELS  
IN PARAMETRIC MULTI-CHANNEL CODING SYSTEMS**  
Docket No. : **FALLER 14-2**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A petition is required to correct the Assignee, under 37 CFR 1.183 and should include: (1) the petition fee set forth in 37 CFR 1.117(h) (currently \$130); (2) the correct name and address of the assignee; (3) the reel and frame number where the assignment is recorded or proof of the date the assignment was submitted for recordation.

A request for a patent to be corrected to state the name of the assignee must:

- A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
- B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
- C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

*Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.*



Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:                    Mail Stop PETITIONS  
                                 Commissioner for Patents  
                                 Post Office Box 1450  
                                 Alexandria, VA 22313-1450

By hand:                   Customer Service Window  
                                 Mail Stop Petitions  
                                 Randolph Building  
                                 401 Dulany Street  
                                 Alexandria, VA 22314

By fax:                     571-273-8300  
                                 ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

**Ernest C. White, *LIE***  
**ernest.white@uspto.gov**  
**(571) 272-3385**

For Mary F. Diggs (703) 756-1580  
Decisions & Certificates  
of Correction Branch

**MENDELSON, DRUCKER, & ASSOCIATES, P.C.**  
**1500 JOHN F. KENNEDY BLVD., SUITE 405**  
**PHILADELPHIA PA 19102**  
**7805313**

ecw





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**GORDON K ANDERSON  
14632 PACIFIC STREET  
TUSTIN CA 92780**

**MAILED**

**AUG 26 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,210,401	:	
Issued: May 1, 2007	:	
Application No. 10/828,046	:	ON PETITION
Filed: April 20, 2004	:	
Attorney Docket No. ROLFES # 9	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 1, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 2, 2011 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/  
Joan Olszewski  
Petitions Examiner  
Office of Petitions



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Paper No.:** \_\_\_\_\_

**DATE** : 04/08/11

**TO SPE OF** : ART UNIT 2837

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 10828192 Patent No.: 7256342

**CofC mailroom date:** 04/01/11

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (C of C)  
Randolph Square 9D40-D  
Palm Location 7580**

**Request for Certificate of Correction Response 10828192 2709999**

*Lamonte Newsome*

**Certificates of Correction Branch**

**571-272-3421**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

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/Walter Benson/

AU 2837

**SPE**

**Art Unit**





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[www.uspto.gov](http://www.uspto.gov)

**THE NATH LAW GROUP  
112 SOUTH WEST STREET  
ALEXANDRIA VA 22314**

**MAILED**

**AUG 25 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,304,713  
Application No. 10/828,296  
Filed: August 27, 2004  
Issued: December 4, 2007  
Attorney Docket No. 26109

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**ON PETITION**

This is a decision on the petition filed March 29, 2010, which is being treated as a request under 37 CFR 3.81(b)<sup>1</sup> to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Joan Olszewski  
Petitions Examiner  
Office of Petitions

<sup>1</sup> See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.





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**MAILED**

**DEC 13 2011**

**OFFICE OF PETITIONS**

MILES & STOCKBRIDGE PC  
1751 PINNACLE DRIVE  
SUITE 500  
MCLEAN VA 22102-3833

In re  
John Hildreth  
Application No. 10/828,350  
Filed: April 21, 2004  
Patent No. 7,299,596  
Issued: November 27, 2007  
Attorney Docket No. G6337-18577US01

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed November 23, 2011.

The fee deficiency submission under 37 CFR 1.28 of \$725 for the 3.5 year maintenance fee (\$640 deficiency) and 6 month surcharge (\$85 deficiency) is hereby accepted.

\$725 has been charged to Deposit Account No. 50-1165, as authorized.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo  
Petitions Attorney  
Office of Petitions





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P.O. Box 25  
Zippori 17910 IL ISRAEL

**MAILED**

**SEP 09 2011**

**TECHNOLOGY CENTER 2100**

In re Application of:  
FULTHEIM, Shai et al.  
Application No. 10/828,465  
Filed: April 21, 2004  
For: **CLUSTER-BASED OPERATING  
SYSTEM-AGNOSTIC VIRTUAL  
COMPUTING SYSTEM**

**DECISION ON PETITION  
UNDER 37 C.F.R. § 1.181**

This is a decision on the petition filed July 17, 2011 to "designate a portion of the Answer as new grounds of rejection under 37 CFR 41.39."

The petition is **DISMISSED**.

**REASONS FOR SUPPORT OF PETITION**

- 1) On October 19, 2009, in response to an Official Action, Appellant submitted declarations under 37 CFR 1.132 by Dr. Joseph Landman and by Boaz Yehuda demonstrating that the invention recited in the claims of the present patent application is objectively non-obvious due to certain secondary considerations. These declarations and supporting exhibits were resubmitted in Appendix B of Appellant's Appeal Brief.
- 2) In the Official Action issued December 30, 2009, following the submission of these declarations, the Examiner did not consider - and in fact did not even mention - the declarations and the secondary considerations that they raised.
- 3) Appellant pointed out this lacuna in the response to this Official Action, which was filed April 26, 2010. This response was accompanied by a declaration under 37 CFR 1.132 by Dr. Guy Tel-Zur (also resubmitted in Appendix B of the Appeal Brief). Dr. Tel-Zur related mainly to the



reasons why a person of ordinary skill could not have derived the claimed invention from the cited references, but he also endorsed Dr. Landman's evidence of objective non-obviousness.

4) Yet in the Final Official Action of July 16, 2010, the Examiner again failed to relate to the substance of the secondary considerations raised by the declarants and simply dismissed the evidence out of hand:

"15. Consideration was indeed given to the previously submitted secondary consideration but the Declaration was unpersuasive. Specifically, it pointed out similar issues as above, and has thus been addressed explicitly herewithin."

The section "above" in the Examiner's remarks relates to Dr. Tel-Zur's explanation of why the references cited in the Official Action do not support a *prima facie* case of obviousness. This section says nothing about the long-felt need for the invention, its commercial success, or any other secondary considerations. The Examiner stated no reason at all for his conclusion that the secondary considerations raised by the declarants were "unpersuasive," nor did he ever relate explicitly to the testimony provided by Dr. Landman and Hr. Yehuda.

5) Appellant again raised the issue of secondary considerations in a Pre-Appeal Brief Request for Review, file September 16, 2010, and in the Appeal Brief filed February 15, 2011.

6) The Examiner responded to Appellant's objective evidence of non-obviousness for the first time in the Examiner's Answer to the Appeal Brief, in sections 10.2, 10.4 and 10.6 (pages 7-10). In the Answer, the Examiner, for the first time, alleged certain deficiencies in the testimony of the declarations and in the supporting evidence that the declarants provided.

7) Appellant believes the substance of the Examiner's allegations to be incorrect, but had they been made at the proper time during prosecution of the application, Appellant would have had the opportunity to submit further evidence in order to overcome them. No such opportunity exists at this point in the appeal process. The Examiner's raising these new grounds of rejection in the Answer has therefore deprived Appellant of a fair opportunity to respond to the rejection.

### **RULES AND PROCEDURES**

MPEP §1207.03(III) states in part:

#### **III. SITUATIONS THAT ARE NOT CONSIDERED AS NEW GROUNDS OF REJECTION**

There is no new ground of rejection when the basic thrust of the rejection remains the same such that an appellant has been given a fair opportunity to react to the rejection. See *In re Kronig*, 539 F.2d 1300, 1302-03, 190 USPQ 425, 426-27 (CCPA 1976). Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the rejection remains the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection. *Id.* at 1303, 190 USPQ at 427 (reliance upon fewer



references in affirming a rejection under 35 U.S.C. 103 does not constitute a new ground of rejection).

MPEP §706.07(c) states:

**Final Rejection, Premature**

Any question as to prematureness of a final rejection should be raised, if at all, while the application is still pending before the primary examiner. This is purely a question of practice, wholly distinct from the tenability of the rejection. It may therefore not be advanced as a ground for appeal, or made the basis of complaint before the Board of Patent Appeals and Interferences. It is reviewable by petition under 37 CFR 1.181. See MPEP § 1002.02(c).

MPEP §2272 states:

In the event that the patent owner is of the opinion that (A) a final rejection is improper or premature, or (B) that an amendment submitted after final rejection complies with 37 CFR 1.116 but the examiner improperly refused entry of such an amendment, the patent owner may file a petition under 37 CFR 1.181 requesting that the final rejection be withdrawn and that prosecution be reopened, or file a petition under 37 CFR 1.181 requesting entry of the amendment, where appropriate. The petition under 37 CFR 1.181 must be filed within the time period for filing a notice of appeal. Note that the filing of a petition under 37 CFR 1.181 does not toll the time period for filing a notice of appeal.

**DECISION**

Upon comparing the "(9) Grounds of Rejection" on pages 3 thru 8 of the Examiner's Answer mailed May 20, 2011, and the grounds of rejection on pages 7 thru 11 of the Final Office Action mailed July 16, 2010, "the rejection remains the same." That is, in both the Examiner's Answer and the Final Office Action, claims 1-4, 9-16, 22-30, and 32-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okamoto (US 5829041), in view of VMware Workstation "User's Manual" Version 3.2, ("VMware"). And, claims 5-8, 17-21 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okamoto (US 5829041), in view of VMware Workstation "User's Manual" Version 3.2, ("VMware") in view of Altman (US 20040054517).

Furthermore, on page 7 of the Final Office Action, the examiner states with respect to the declarations under 37 CFR 1.132 filed prior to April 26, 2010 "Consideration was indeed given to the previously submitted secondary consideration but the Declaration was unpersuasive. Specifically, it pointed out similar issues as above, and has thus been addressed explicitly herewithin." With respect to these declarations, the examiner further states "There are no, and none are pointed-out by the Declaration, issues that would prevent one from making the combination. Further, there are many motivations that would allow and encourage one of ordinary skill in the art to make the combination. The various advantages are security, sandboxing, computer resource aggregation (lots of boxes methodology), less expensive super-computers, etc. Okamoto discloses aggregation of resources to perform a single job / run a single computer program. VMware Workstation is a program that, when ran, creates one or more




virtual machines. Nothing in Okamoto or VMware prevents the virtual machine from working on Okamoto's system. Accordingly, the operating systems of Okamoto would be implementing the virtual machine, in concert with the VMware Workstation."

The evidence present in the prosecution history of the instant application reveals all declarations filed by the applicant have been sufficiently considered in a timely manner by the examiner. Additionally, MPEP §1207.03(III) makes it clear that "a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection." At most, the examiner's response to the applicant's arguments presented in the appeal brief regarding the declarations is "a change in the discussion of, or rationale in support of, the rejection." Therefore, according to MPEP §1207.03(III), the Examiner's Answer does not contain new grounds of rejection.

Lastly, any concerns regarding an improper/incomplete or premature final Office action should have been addressed pursuant to MPEP §706.07(c) and MPEP §2272.

For the reasons provided above, the petition filed on July 17, 2011 is **DISMISSED**.

Any inquiry regarding this decision should be directed to Eddie C. Lee at (571) 272-1732.

  
Wendy Garber  
Director, Technology Center 2100

U.S. DEPARTMENT OF COMMERCE  
NATIONAL INTELLECTUAL PROPERTY CENTER  
WASHINGTON, DC 20540

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JUL 27 2011





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AUG 25 2010

OFFICE OF PETITIONS

In re Application of :  
Teoh, et al. : DECISION ON PETITION  
Application No. 10/828,467 :  
Filed/Deposited: 20 April, 2004 :  
Attorney Docket No. 4459.1006-000 :

This is a decision on the petition filed on 28 July, 2010, pursuant to 37 C.F.R. §1.183 to suspend the rules—specifically, the requirements of the regulations at 37 C.F.R. §1.132.

**NOTE:**

Petitioner seeks relief pursuant to 37 C.F.R. §1.183, but Petitioner then fails to make a showing that she has made an effort to seek out information in this matter.

This is not appropriate.

Petitioners always are reminded that those registered to practice **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to inquire and disclose.<sup>1</sup> Registered practitioners do not satisfy this requirement simply by placing into the statements others the required showings herein.

Petitioner must make the showing with proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the papers in question (declaration with any necessary specification: description, claims and drawings); with a statement of the last known address of the non-signing inventor(s)—**with diligence** in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

<sup>1</sup> See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).



Should Petitioner wish to renew her petition, she must make the showing required—i.e., her independent inquiry—as discussed below.

The petition pursuant to 37 C.F.R. §1.183 is **DISMISSED**.

### **BACKGROUND**

The record indicates:

On 28 July, 2010 Petitioner sought to file statements/declarations by the co-inventors herein pursuant to the regulations at 37 C.F.R. §1.132, and was able to submit statements from co-inventors Teoh, Hutmacher, KC Tan and KF Tan for themselves and on behalf of Iwan Zein. However, it does not appear that the signature of Iwan Zein was obtained at that time.

Contemporaneously on 28 July, 2010, Petitioner sought waiver pursuant to 37 C.F.R. §1.183 of the requirements of to 37 C.F.R. §1.132, averring that the non-signing inventor Iwan Zein refused to sign or could not be found, and in support of that averment, Petitioner submitted (along with a two- (2-) page photocopy of an envelope and non-delivery receipt) a two- (2-) page statement/declaration by Nerliza Ismail (Ms. Ismail), identified as “the Management Assistant Officer from NUS Industry Liaison who attempted to contact inventor Iwan Zein on behalf of the Applicant, Osteopore International Ltd \*\*\*.”

There is no indication that Ms. Ismail is registered to practice before the Office and, thus, she may or may not appreciate the duties of diligence, inquiry and candor expected of all who present to the Office.

However, Petitioner, as one registered to practice before the Office, well appreciates those duties.

Thus, Petitioner is expected to undertake her own inquiry in this matter—i.e., as to the showing that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the papers in question (declaration with any necessary specification: description, claims and drawings); with a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address. And Petitioner must present to the Office the evidence of that inquiry and its result(s)—consistent with her continuing duty to inquire and to disclose and to do so with candor<sup>2</sup>—on any renewed petition.

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<sup>2</sup> See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner’s duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).



### ANALYSIS

Suspension of the rules pursuant to 37 C.F.R. §1.183 may be granted in an “extraordinary situation, when justice requires.”

Specifically, the regulations at 37 C.F.R. §1.183 set forth the conditions required for their invocation/application:

#### **§1.183 Suspension of rules.**

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in §1.17(f). (Emphasis supplied.)

It does not appear that Petitioner has as of this writing demonstrated the extraordinary situation for which Petitioner sought, *inter alia*, suspension of the rules (i.e., the requirements of the regulations at 37 C.F.R. §1.132) pursuant to 37 C.F.R. §1.183.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.<sup>3</sup>

### CONCLUSION

Accordingly, the petition considered pursuant to 37 C.F.R. §1.183 (for waiver of the regulations at 37 C.F.R. §1.132) is **DISMISSED**.

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<sup>3</sup> See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.



Application No. 10/828,467

The instant application is released to Technology Center/AU 1791 for further processing in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2<sup>4</sup>) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./  
John J. Gillon, Jr.  
Senior Attorney  
Office of Petitions

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<sup>4</sup> The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.





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P.O. BOX 9133  
CONCORD MA 01742-9133

**MAILED**

**JAN 31 2011**

**OFFICE OF PETITIONS**

In re Application of  
Teoh, et al.  
Application No. 10/828,467  
Filed/Deposited: 20 April, 2004  
Attorney Docket No. 4459.1006-000

:  
: DECISION ON PETITION  
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This is a decision on the petition filed on 7 October, 2010, pursuant to 37 C.F.R. §1.183 to suspend the rules—specifically, the requirements of the regulations at 37 C.F.R. §1.132.

The petition pursuant to 37 C.F.R. §1.183 is **GRANTED**.

**BACKGROUND**

The record indicates:

On 28 July, 2010 Petitioner sought to file statements/declarations by the co-inventors herein pursuant to the regulations at 37 C.F.R. §1.132, and was able to submit statements from co-inventors Teoh, Hutmacher, KC Tan and KF Tan for themselves and on behalf of Iwan Zein. However, it does not appear that the signature of Iwan Zein was obtained at that time.

Contemporaneously on 28 July, 2010, Petitioner sought waiver pursuant to 37 C.F.R. §1.183 of the requirements of 37 C.F.R. §1.132, averring that the non-signing inventor Iwan Zein refused to sign or could not be found, and in support of that averment, Petitioner submitted (along with a two- (2-) page photocopy of an envelope and non-delivery receipt) a two- (2-) page statement/declaration by Nerliza Ismail (Ms. Ismail), identified as “the Management Assistant Officer from NUS Industry Liaison who attempted to contact inventor Iwan Zein on behalf of the Applicant, Osteopore International Ltd \*\*\*.” There was no indication that Ms. Ismail was registered to practice before the Office and, thus, she may or may not appreciate the duties of diligence, inquiry and candor expected of all who present to the Office. The petition was dismissed on 16 August, 2010.



Application No. 10/828,467

On 7 October, 2010, Petitioner re-advanced her petition for waiver pursuant to 37 C.F.R. §1.183 of the requirements of 37 C.F.R. §1.132, and:

- averred that the non-signing inventor Iwan Zein refused to sign or could not be found;
- provided a showing of diligence in an effort to ascertain a valid/current/reasonably believed to be last known address for Iwan Zein and transmittal of the entire application with a declaration pursuant to 37 C.F.R. §1.132 to Iwan Zein; and
- demonstrated an inability to locate Iwan Zein and/or otherwise obtain the joinder/signing of Iwan Zein in the declaration.

Thus, Petitioner appears to have undertaken her own inquiry in this matter—i.e., as to the showing that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the papers in question (declaration with any necessary specification: description, claims and drawings); with a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

### ANALYSIS

Suspension of the rules pursuant to 37 C.F.R. §1.183 may be granted in an “extraordinary situation, when justice requires.”

Specifically, the regulations at 37 C.F.R. §1.183 set forth the conditions required for their invocation/application:

#### **§1.183 Suspension of rules.**

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in §1.17(f). (Emphasis supplied.)

It appears that Petitioner has as of this writing demonstrated the extraordinary situation for which Petitioner sought, *inter alia*, suspension of the rules (i.e., the requirements of the regulations at 37 C.F.R. §1.132) pursuant to 37 C.F.R. §1.183.



Application No. 10/828,467

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.<sup>1</sup>

### CONCLUSION

Accordingly, the petition considered pursuant to 37 C.F.R §1.183 (for waiver of the regulations at 37 C.F.R §1.132) is **GRANTED**.

The instant application is released to Technology Center/AU 1742 for further processing in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2<sup>2</sup>) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).



/John J. Gillon, Jr./  
John J. Gillon, Jr.  
Senior Attorney  
Office of Petitions

<sup>1</sup> See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant is required under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

<sup>2</sup> The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.





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CONCORD MA 01742-9133

MAILED

AUG 16 2010

In re Application of  
Teoh, et al.  
Application No. 10/828,477  
Filed/Deposited: 20 April, 2004  
Attorney Docket No. 4459.1006-001

: OFFICE OF PETITIONS  
: DECISION ON PETITION  
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:  
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This is a decision on the petition filed on 12 July, 2010, pursuant to 37 C.F.R. §1.183 to suspend the rules—specifically, the requirements of the regulations at 37 C.F.R. §1.132.

**NOTES:**

Petitioner seeks relief pursuant to 37 C.F.R. §1.183, but fails to make a showing that she—Petitioner—has made an effort to seek out information in this matter.

Rather, Petitioner places all of the duties in the hands of one not registered to practice before the Office.

This is not appropriate.

Petitioners always are reminded that those registered to practice **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to inquire and disclose.<sup>1</sup> Registered practitioners do not satisfy this requirement simply by placing into the statements others the required showings herein.

Petitioner must make the showing with proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the papers in question (declaration with any necessary specification: description, claims and drawings); with a statement of the last known address of the non-signing inventor(s)—

<sup>1</sup> See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).



with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

Should Petitioner wish to renew her petition, she must make the showing required—i.e., her independent inquiry—as discussed below.

The petition pursuant to 37 C.F.R. §1.183 is **DISMISSED**.

### BACKGROUND

The record indicates:

On 8 April, 2010, former Counsel sought to file statements/declarations by the co-inventors herein pursuant to the regulations at 37 C.F.R. §1.132, and was able to submit statements from co-inventors Teoh, Hutmacher, KC Tan and KF Tan for themselves and on behalf of Iwan Zein. However, it does not appear that the signature of Iwan Zein was obtained at that time.

About two (2) months later, on 24 May, 2010, Petitioner Vivien J. Tannoch-Magin (Reg. No. 56,120) (Petitioner) sought to enroll as Counsel of record pursuant to a Revocation/Power of Attorney submitted that date, and that submission was accepted by the Office on 25 May, 2010.

On 12 July, 2010, Petitioner sought waiver pursuant to 37 C.F.R. §1.183 of the requirements of to 37 C.F.R. §1.132, averring that the non-signing inventor Iwan Zein refused to sign or could not be found, and in support of that averment, Petitioner submitted (along with a two- (2-) page photocopy of an envelope and non-delivery receipt) a two- (2-) page statement/declaration by Nerliza Ismail (Ms. Ismail), identified as “the Management Assistant Officer from NUS Industry Liaison who attempted to contact inventor Iwan Zein on behalf of the Applicant, Osteopore International Ltd \*\*\*.”

There is no indication that Ms. Ismail is registered to practice before the Office and, thus, she may or may not appreciate the duties of diligence, inquiry and candor expected of all who present to the Office.

However, Petitioner, as one registered to practice before the Office, well appreciates those duties.

Thus, Petitioner is expected to undertake her own inquiry in this matter—i.e., as to the showing that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the papers in question (declaration with any necessary specification: description, claims and drawings); with a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address. And Petitioner must present to the



Office the evidence of that inquiry and its result(s)—consistent with her continuing duty to inquire and to disclose and to do so with candor<sup>2</sup>—on any renewed petition.

### ANALYSIS

Suspension of the rules pursuant to 37 C.F.R. §1.183 may be granted in an “extraordinary situation, when justice requires.”

Specifically, the regulations at 37 C.F.R. §1.183 set forth the conditions required for their invocation/application:

#### **§1.183 Suspension of rules.**

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in §1.17(f). (Emphasis supplied.)

It does not appear that Petitioner has as of this writing demonstrated the extraordinary situation for which Petitioner sought, *inter alia*, suspension of the rules (i.e., the requirements of the regulations at 37 C.F.R. §1.132) pursuant to 37 C.F.R. §1.183.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.<sup>3</sup>

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<sup>2</sup> See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

<sup>3</sup> See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.



CONCLUSION

Accordingly, the petition considered pursuant to 37 C.F.R §1.183 (for waiver of the regulations at 37 C.F.R §1.132) is **DISMISSED**.

The instant application is released to Technology Center/AU 1647 for further processing in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2<sup>4</sup>) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./  
John J. Gillon, Jr.  
Senior Attorney  
Office of Petitions

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<sup>4</sup> The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.





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SMITH & REYNOLDS, P.C.  
530 VIRGINIA ROAD  
P.O. BOX 9133  
CONCORD MA 01742-9133

**MAILED**

**JAN 31 2011**

**OFFICE OF PETITIONS**

In re Application of	:	
Teoh, et al.	:	DECISION ON PETITION
Application No. 10/828,477	:	
Filed/Deposited: 20 April, 2004	:	
Attorney Docket No. 4459.1006-001	:	

This is a decision on the petition filed on 7 October, 2010, pursuant to 37 C.F.R. §1.183 to suspend the rules—specifically, the requirements of the regulations at 37 C.F.R. §1.132.

The petition pursuant to 37 C.F.R. §1.183 is **GRANTED**.

**BACKGROUND**

The record indicates:

On 8 April, 2010, former Counsel sought to file statements/declarations by the co-inventors herein pursuant to the regulations at 37 C.F.R. §1.132, and was able to submit statements from co-inventors Teoh, Hutmacher, KC Tan and KF Tan for themselves and on behalf of Iwan Zein. However, it does not appear that the signature of Iwan Zein was obtained at that time.

About two (2) months later, on 24 May, 2010, Petitioner Vivien J. Tannoch-Magin (Reg. No. 56,120) (Petitioner) sought to enroll as Counsel of record pursuant to a Revocation/Power of Attorney submitted that date, and that submission was accepted by the Office on 25 May, 2010.

On 12 July, 2010, Petitioner sought waiver pursuant to 37 C.F.R. §1.183 of the requirements of to 37 C.F.R. §1.132, averring that the non-signing inventor Iwan Zein refused to sign or could not be found, and in support of that averment, Petitioner submitted (along with a two- (2-) page photocopy of an envelope and non-delivery receipt) a two- (2-) page statement/declaration by Nerliza Ismail (Ms. Ismail), identified as "the Management Assistant Officer from NUS Industry Liaison who attempted to contact inventor Iwan Zein on behalf of the Applicant, Osteopore International Ltd \*\*\*." There was no indication that Ms. Ismail was registered to practice before



Application No. 10/828,477.

the Office and, thus, she may or may not appreciate the duties of diligence, inquiry and candor expected of all who present to the Office. The petition was dismissed on 16 August, 2010.

On 7 October, 2010, Petitioner re-advanced her petition for waiver pursuant to 37 C.F.R. §1.183 of the requirements of to 37 C.F.R. §1.132, and:

- averred that the non-signing inventor Iwan Zein refused to sign or could not be found;
- provided a showing of diligence in an effort to ascertain a valid/current/reasonably believed to be last known address for Iwan Zein and transmittal of the entire application with a declaration pursuant to 37 C.F.R. §1.132 to Iwan Zein; and
- demonstrated an inability to locate Iwan Zein and/or otherwise obtain the joinder/signing of Iwan Zein in the declaration.

Thus, Petitioner appears to have undertaken her own inquiry in this matter—i.e., as to the showing that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the papers in question (declaration with any necessary specification: description, claims and drawings); with a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

### ANALYSIS

Suspension of the rules pursuant to 37 C.F.R. §1.183 may be granted in an “extraordinary situation, when justice requires.”

Specifically, the regulations at 37 C.F.R. §1.183 set forth the conditions required for their invocation/application:

#### **§1.183 Suspension of rules.**

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in §1.17(f). (Emphasis supplied.)

It appears that Petitioner has as of this writing demonstrated the extraordinary situation for which Petitioner sought, *inter alia*, suspension of the rules (i.e., the requirements of the regulations at 37 C.F.R. §1.132) pursuant to 37 C.F.R. §1.183.



Application No. 10/828,477

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.


Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.<sup>1</sup>

### CONCLUSION

Accordingly, the petition considered pursuant to 37 C.F.R. §1.183 (for waiver of the regulations at 37 C.F.R. §1.132) is **GRANTED**.

The instant application is released to Technology Center/AU 1647 for further processing in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2<sup>2</sup>) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

  
/John J. Gillon, Jr./  
John J. Gillon, Jr.  
Senior Attorney  
Office of Petitions

<sup>1</sup> See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

<sup>2</sup> The regulations at 37 C.F.R. §1.2 provide:

**§1.2 Business to be transacted in writing.**

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.





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NIXON PEABODY, LLP  
401 9TH STREET, NW  
SUITE 900  
WASHINGTON DC 20004-2128

MAILED

OCT 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Naas et al.	:	DECISION ON PETITION
Application No. 10/828,497	:	TO WITHDRAW
Filed: April 21, 2004	:	FROM RECORD
Attorney Docket No. 741439-13	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 29, 2010.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

*An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, a Board of Patent Appeals and Interferences Docketing Notice was mailed September 3, 2010 in the above-identified application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski  
Petitions Examiner  
Office of Petitions





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**SYNOPSIS, INC. C/O HAYNES BEFFEL & WOLFELD LLP**  
**P.O. BOX 366**  
**HALF MOON BAY CA 94019**

**MAILED**

**OCT 19 2010**

In re Application of	:	
Lukas P.P.P. Van Ginneken	:	<b>OFFICE OF PETITIONS</b>
Application No. 10/828,547	:	<b>DECISION ON PETITION</b>
Filed: April 19, 2004	:	
Attorney Docket No. SYN 1006-0	:	

This is a decision on the petition filed July 6, 2010, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimers filed April 13, 2009 be withdrawn.

The petition for withdrawal of terminal disclaimers is **DISMISSED**.

The final Office action of January 15, 2009 included a non-statutory double patenting rejection of certain claims. In response thereto, applicants filed terminal disclaimers on April 13, 2009. Petitioner requests that the terminal disclaimers now be withdrawn since the claims as currently amended overcome the non-statutory double patenting rejection.

The examiner of record has indicated to the undersigned that at least one claim is still properly rejected under the non-statutory double patenting rejection as set forth in the final Office action. Accordingly, it would not be proper to withdraw the terminal disclaimers at this time.

For the reasons presented above, the petition to withdraw the terminal disclaimers is **dismissed**.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-6842.

Carl Friedman  
Petitions Examiner  
Office of Petitions





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SYNOPSIS, INC. C/O HAYNES BEFFEL & WOLFELD LLP  
P.O. BOX 366  
HALF MOON BAY CA 94019

**MAILED**

**MAR 23 2011**

**OFFICE OF PETITIONS**

In re Application of :  
Lukas P.P.P. Van Ginneken :  
Application No. 10/828,547 : **DECISION ON PETITION**  
Filed: April 19, 2004 :  
Attorney Docket No. SYNP 1006-0 :

This is a decision on the renewed petition filed January 20, 2011, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimers filed April 13, 2009 be withdrawn.

The petition for withdrawal of terminal disclaimers is **DISMISSED**.

The petition filed July 6, 2010 requested the same relief requested in the instant petition. That petition was dismissed in a decision mailed October 19, 2010 on the basis that the examiner of record had indicated that at least one claim was still properly rejected under non-statutory double patenting and thus the terminal disclaimers were still required.

The application is now under non-final rejection and the examiner of record has indicated to the undersigned that the terminal disclaimers are still required to overcome non-statutory double patenting.

For the reason presented above, the renewed petition to withdraw the terminal disclaimers is **dismissed**.

The application is being referred to Technology Center Art Unit 2825 for further consideration on the merits in due course.

Telephone inquiries related to this decision should be addressed to the undersigned at (571) – 272-6842.

Carl Friedman  
Petitions Examiner  
Office of Petitions



<b>Doc Code: PET.AUTO</b> <b>Document Description: Petition automatically granted by EFS-Web</b>		PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	<b>REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS</b>	
Application Number	10828668	
Filing Date	21-Apr-2004	
First Named Inventor	Igor Waysbeyn	
Art Unit	3738	
Examiner Name	CHERYL MILLER	
Attorney Docket Number	029855.0102PTUS	
Title	Anastomosis system and method	
<input checked="" type="radio"/> Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number:		32042 <hr/>
The reason(s) for this request are those described in 37 CFR: 10.40(b)(4) 10.40(c)(5)		
Certifications		
<input checked="" type="checkbox"/> I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment		
<input checked="" type="checkbox"/> I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled		
<input checked="" type="checkbox"/> I/We have notified the client of any responses that may be due and the time frame within which the client must respond		
Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:		
Name	HDH MEDICAL LTD.	
Address	P.O. BOX 25381	
City	HAIFA	
State		
Postal Code	31253	



Country	IL
I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Scott A. Chambers/
Name	Scott A. Chambers
Registration Number	37573





## UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
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[www.uspto.gov](http://www.uspto.gov)

Decision Date : February 13, 2012

In re Application of :

DECISION ON REQUEST TO WITHDRAW AS

Igor Waysbeyn

ATTORNEY/AGENT OF RECORD

Application No : 10828668

Filed : 21-Apr-2004

Attorney Docket No : 029855.0102PTUS

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed February 13, 2012

The request is **APPROVED**.

The request was signed by Scott A. Chambers (registration no. 37573 ) on behalf of all attorneys/agents associated with Customer Number 32042 . All attorneys/agents associated with Customer Number 32042 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name HDH MEDICAL LTD.

Name2

Address 1 P.O. BOX 25381

Address 2

City HAIFA

State

Postal Code 31253

Country IL

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

DATE : 6/30/10

Paper No.:       

TO SPE OF : ART UNIT 3632

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/828746 Patent No.: 7731133 B2

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**  
**Randolph Square – 9D10-A**  
**Palm Location 7580**

*Virginia Tolbert*

**Certificates of Correction Branch**

**571-272-0460**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

**Specify below which changes do not apply.**

☐ **Denied**

**State the reasons for denial below.**

**Comments:** The Certificate of Correction regarding claim 4 file 6/23/2010 has been approved.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





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Paper No.

LIU & LIU  
444 S. FLOWER STREET  
SUITE 1750  
LOS ANGELES CA 90071

**MAILED**

**AUG 06 2010**

**OFFICE OF PETITIONS**

In re Application of :  
Ho et al. : DECISION ON  
Application No. 10/828,761 : PETITION  
Filed: April 20, 2004 :  
Atty Docket No. 1176/209 :

This is a decision on the RENEWED PETITION UNDER 37 CFR 1.137(a), filed March 13, 2009, which is being treated as a (no-fee) petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition under 37 CFR 1.181 is GRANTED.

The above-identified application became abandoned for failure to timely file an appeal brief and brief fee. By decision mailed January 21, 2009, the initial petition was dismissed. It was concluded that petitioner had shown that an appeal brief was timely filed by facsimile transmission on April 14, 2008. However, it was not shown that the brief was accompanied by the required brief fee set forth in 37 CFR 41.20(b)(2).

On instant renewed petition, it was established that in fact on April 14, 2008 the record contained a general authorization to charge any required fees to a deposit account. There is no showing of record that any attempt was ever made to charge the required brief fee to the deposit account. It is noted that as of the mailing of the decision dismissing the petition mailed January 21, 2009 evidence of the general authorization was of record in this application. Accordingly, in the first instance, in response to the petition filed September 10, 2008, the



holding of abandonment should have been withdrawn.  
Consideration of the petition under 37 CFR 1.137(a) was unnecessary.

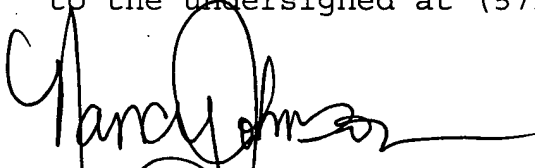
Receipt of the appeal brief fee on renewed petition is acknowledged.

Further, as consideration of the alternative petition under 37 CFR 1.137(a) in the first instance was unnecessary, the fee for consideration under 37 CFR 1.137(a) of \$770<sup>1</sup> is being refunded.

No fee is required on petition under § 1.181.

Technology Center AU 2629 has been advised of this decision. The application is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the appeal brief resubmitted on September 10, 2008.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

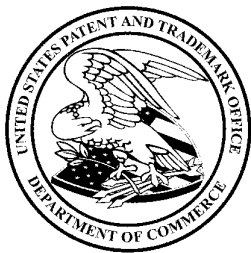


Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

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<sup>1</sup> The fee for unintentional revival rather than unavoidable revival was charged.





## UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
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[www.uspto.gov](http://www.uspto.gov)

Decision Date : February 2, 2012

In re Application of :

Stephanie Kladakis

### DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10828838

Filed : 20-Apr-2004

Attorney Docket No : 022956-0261

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed February 2, 2012 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

**Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 1647 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions



Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	<b>PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)</b>	
Application Number	10828838	
Filing Date	20-Apr-2004	
First Named Inventor	Stephanie Kladakis	
Art Unit	1647	
Examiner Name	CHERIE WOODWARD	
Attorney Docket Number	022956-0261	
Title	NONWOVEN TISSUE SCAFFOLD	
<p>An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.</p> <p>APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).</p> <p>A grantable petition requires the following items:</p> <p>(1) Petition fee; and</p> <p>(2) One of the following reasons:</p> <p>(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;</p> <p>(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or</p> <p>(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).</p>		
<p>Petition Fee</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY</p>		
Reason for withdrawal from issue		



- ☐ One or more claims are unpatentable
- ☒ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)
- ☐ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request, submission, and fee.

- ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that:
- ☐ The RCE request, submission, and fee have already been filed in the above-identified application on
- ☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ☐ A joint inventor; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Christopher J. Stow/
Name	Christopher J. Stow
Registration Number	67003



**Doc Code: PET.PTA.RCAL**

**Document Description: Request for Recalculation in view of Wyeth**

PTO/SB/131 (02-10)

Approved for use through 07/31/2010. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH*\*

Attorney Docket  
Number: **P5141C1**

Application  
Number: **10/829,014**

Filing Date  
(or 371(b) or (f) Date): **4/20/2004**

Patent Number: **7668171**

Issue Date: **2/23/2010**

First Named  
Inventor: **Oleg Bondarenko**

Title: **Method and Apparatus for Providing Estimated Response-Wait-Time Displays for Data Network-Based Inquiries to a Communication Center**

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

\**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature **/Donald R. Boys/**

Date **08/17/2010**

Name  
(Print/Typed) **Donald R. Boys**

Registration Number **35074**

**Note:** Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below\*.



\*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



**Instruction Sheet for:  
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT  
IN VIEW OF *WYETH*\***  
(Not to be Submitted to the USPTO)

**This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).**

**This form must be filed within 180 days of the day the patent was granted, with the following exception:**

Patentees who received a decision from the USPTO under the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of *Wyeth* (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

**Do not use this form if the application has been allowed, but not yet issued as a patent.**

- 1. For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.
- 2. For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at <http://www.uspto.gov/patents/law/notices/2010.jsp>.

\**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).



## Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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CENTRAL COAST PATENT AGENCY, INC  
3 HANGAR WAY SUITE D  
WATSONVILLE, CA 95076

Mail Date: 09/13/2010

<b>Applicant</b>	: Oleg Bondarenko	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7668171	: RECALCULATION of PATENT
<b>Issue Date</b>	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/829,014	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 04/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1681** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.





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Hewlett-Packard Company  
Intellectual Property Administration  
3404 E. Harmony Road  
Mail Stop 35  
Fort Collins, CO 80528

**MAILED**

**SEP 21 2010**

**OFFICE OF PETITIONS**

In re Application of  
Isaac Lagnado  
Application No. 10/829,067  
Filed: April 21, 2004  
Attorney Docket No. 200313247-1

DECISION ON PETITION

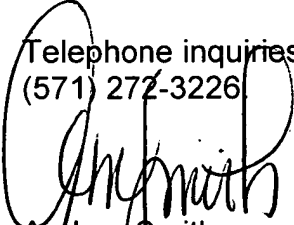
This is a decision on the petition under 37 CFR 1.137(b), filed July 30, 2010, to revive the above-identified application.

This application was abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed March 4, 2010. A Notice of Abandonment was mailed on June 29, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of \$1,510 for payment of the issue fee and \$300 for payment of the publication fee; (2) the petition fee of \$1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Data Management for further processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226

  
Andrea Smith  
Petitions Examiner  
Office of Petitions





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CLARK & BRODY  
1700 Diagonal Road, Suite 510  
Alexandria, VA 22314

**MAILED**  
**MAR 26 2012**  
**OFFICE OF PETITIONS**

In re Patent No. 7,255,807	:	
Issue Date: August 14, 2007	:	
Application No. 10/829,291	:	DECISION ON PETITION
Filed: April 22, 2004	:	
Patentee(s): Masayasu Senda, et. al.	:	

This is a decision on the renewed request under 37 CFR 3.81<sup>1</sup> filed on March 14, 2012, to add an additional name of an assignee on the front page of the above patent by way of a certificate of correction.

Since the present request complies with the requirements of 37 CFR 3.81, the request is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

/Andrea Smith/  
Andrea Smith  
Petitions Examiner  
Office of Petitions

<sup>1</sup> See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.



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## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6990903	2006-01-31	10829318	2004-04-21	BTO 2-014

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John Okuley/	Date (YYYY-MM-DD)	2011-10-06
Name	John Okuley	Registration Number	59839
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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In re Patent No.	6990903	:
Issue Date:	January 31, 2006	:
Application No.	10829318	:DECISION GRANTING PETITION
Filed:	April 21, 2004	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	BTO 2-014	:

This is a decision on the electronic petition, filed October 6, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 6, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



13 SEP 2010



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AT&T Legal Department - HFZ  
ATTN. Patent Docketing  
One AT&T Way  
Room 2A-207  
Bedminster NJ 07921

In re Application of :  
TAYLOR et al. :  
Application No.: 10/829,539 : DECISION  
Attorney Docket No.: 20103/030294 :  
Filing Date: April 22, 2004 :  
For: METHOD AND SYSTEM FOR :  
PROVISIONING LOGICAL CIRCUITS FOR :  
INTERMITTENT USE IN A DATA NETWORK :

This decision is in response to applicant's "REQUEST FOR REFUND" filed in the United States Patent and Trademark Office (USPTO) on 19 August 2010.

The request for refund requests a refund of \$180 charged on 24 May 2010. On that date, an Information Disclosure Statement (IDS) was filed and \$180 was charged to Deposit Account 50-2455. The petition urges that the fee was charged in error since the required certification had been made with the submission of the IDS and thus no fee was due. This argument is correct. Accordingly, the \$180 has been credited to Deposit Account 50-2455.

The request for refund under 37 CFR 1.26 is **GRANTED** for the reasons set forth above.

/Daniel Stemmer/

Daniel Stemmer  
Legal Examiner  
Office of the Deputy Commissioner  
for Patent Examination Policy  
Telephone: (571) 272-3301





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,618	04/20/2004	Robert E. Dudley	04274661	7286
11030	7590	02/14/2011	EXAMINER	
Baker Botts L.L.P. 30 Rockefeller Plaza New York, NY 10112-4498			JEAN-LOUIS, SAMIRA JM	
			ART UNIT	PAPER NUMBER
			1627	
			MAIL DATE	DELIVERY MODE
			02/14/2011	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.





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Baker Botts L.L.P.  
30 Rockefeller Plaza  
New York NY 10112-4498

In re Application of:  
Robert E. Dudley, et al.  
Serial No.: 10/829,618  
Filed: April 20, 2004  
Attorney Docket No.: 04274661

:  
:  
: PETITION DECISION  
:

This is in response to the petition under 37 CFR § 1.59(b), filed January 20, 2011, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the materials submitted to the Patent Office on December 22, 2010, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an unexamined application. As such the information provided has not been reviewed nor have proceedings in the application been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/  
Marianne C. Seidel, Quality Assurance Specialist  
Technology Center 1600





# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,618	04/20/2004	Robert E. Dudley	04274661	7286
11030	7590	02/14/2011		
Baker Botts L.L.P. 30 Rockefeller Plaza New York, NY 10112-4498			EXAMINER JEAN-LOUIS, SAMIRA JM	
			ART UNIT	PAPER NUMBER
			1627	
			MAIL DATE	DELIVERY MODE
			02/14/2011	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.





## UNITED STATES PATENT AND TRADEMARK OFFICE

FEB 14 2011

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 Alexandria, VA 22313-1450  
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Baker Botts L.L.P.  
 30 Rockefeller Plaza  
 New York NY 10112-4498

In re Application of: :  
 Robert E. Dudley, et al. :  
 Serial No.: 10/829,618 : PETITION DECISION  
 Filed: April 20, 2004 :  
 Attorney Docket No.: 04274661

This is in response to the petition under 37 CFR § 1.59(b), filed January 14, 2011, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the materials submitted to the Patent Office on January 14, 2011, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an unexamined application. As such the information provided has not been reviewed nor have proceedings in the application been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Petitioner may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/  
 Marianne C. Seidel, Quality Assurance Specialist  
 Technology Center 1600



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.: \_\_\_\_\_

DATE : 01-24-11

TO SPE OF : ART UNIT 1713

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/829842 Patent No.: 7307133

CofC mailroom date: 01-13-11

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**


Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)  
Randolph Square – 9D10-A  
Palm Location 7580**

  
\_\_\_\_\_  
Angela Green  
Certificates of Correction Branch  
(703) 756-1541

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SPE**

**Art Unit**

1765





## UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP  
1279 OAKMEAD PARKWAY  
SUNNYVALE, CA 94085-4040

Mail Date: 08/02/2010

<b>Applicant</b>	: Andreas Wolber	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7664818	: RECALCULATION of PATENT
<b>Issue Date</b>	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/829,868	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 04/21/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1213** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.





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Patent No. : 8052966  
Ser. No. 10/829926  
Inventor(s) : HALL, FREDERICK L.  
Issued : 11/08/2011  
Title : METHODS AND COMPOSITIONS FOR TREATING METASTATIC  
CANCER  
Docket No. : 30863-713.201

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing *incorrect or erroneous* assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P.) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1. 17(i) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

*In the Request*, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

**By mail:**

**Mail Stop PETITIONS  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450**



By hand: Customer Service Window  
Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

By fax: (703) 872-9306  
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A Certificate of Correction will be issued for the remaining errors.

**Omega Lewis**  
For Mary Diggs  
Decisions & Certificates  
of Correction Branch  
(703)756-1575 or (703) 756-1814

WILSON, SONSINI, GOODRICH & ROSATI  
650 PAGE MILL ROAD  
PALO ALTO CA 94304-1050

**OL**





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GREENBLUM & BERNSTEIN, P.L.C.  
1950 ROLAND CLARKE PLACE  
RESTON VA 20191

**MAILED**  
**SEP 13 2010**  
**OFFICE OF PETITIONS**

In re Patent of Schemmel et al.: DECISION ON REQUEST  
Patent No. 7,682,417 : FOR RECONSIDERATION OF  
Issue Date: March 23, 2010 : PATENT TERM ADJUSTMENT  
Application No. 10/830,003 : and  
Filed: April 23, 2004 : NOTICE OF INTENT TO ISSUE  
Atty. Docket No. P24945 : CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 21, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand six hundred forty-six (1646) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand six hundred forty-six (1646) days is **granted to the extent indicated herein.**

The sole issue pertains to the three years to issue guarantee of 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) (hereinafter, "B delay"). The Office concurs with patentees' assertion that the B delay period begins on April 24, 2007, which is one day after three years after the filing of the application on April 23, 2004, and ends on March 23, 2010, when the patent issued. However, the proper calculation is 1065 days, not 1064 days as asserted by patentees. The Office concurs with patentees' conclusion that, pursuant to 37 CFR 1.702(b)(4), 583 days are excluded from the B delay period as days consumed by appellate review. The B delay period is 482 (1065 - 583) days.

In light thereof, the correct patent term adjustment is 1647 days, which is the sum of 615 days of delay under 35 U.S.C. 154(b)(1)(A) and 482 days of B Delay and 583 days for successful



appellate review under 35 U.S.C. 154(b)(1)(C) and reduced by 33 days for Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted **by one thousand six hundred forty-seven (1647) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.



Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,682,417 B2

DATED : March 23, 2010

DRAFT

INVENTOR(S) : Schemmel et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1521 days

Delete the phrase "by 1521 days" and insert – by 1647 days--





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Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**CANTOR COLBURN LLP  
20 CHURCH STREET  
22ND FLOOR  
HARTFORD CT 06103**

**MAILED**

**JAN 31 2012**

**OFFICE OF PETITIONS**

In re Patent No. 6,966,074  
Issue Date: November 22, 2005  
Application No. 10/830,159  
Filed: April 22, 2004  
Attorney Docket No. WJO0055US

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:

**DECISION ON PETITION**

This is a decision on the petition under 37 CFR 1.378(c), filed November 15, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 22, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The patent file is being forwarded to Files Repository.

/Michelle R. Eason/  
Michelle R. Eason  
Paralegal Specialist  
Office of Petitions





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Paper No.

FISH & RICHARDSON P.C.  
P.O. BOX 1022  
MINNEAPOLIS MN 55440-1022

**MAILED**

**AUG 03 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7304174	:	
Shinagawa et al.	:	ON PETITIONS
Application No. 10/830480	:	under 37 CFR 1.183
Issue Date: 12/04/2007	:	and
Filed: 04/23/2004	:	ON REQUEST FOR RECONSIDERATION
Attorney Docket No.	:	OF PATENT TERM ADJUSTMENT
14539-0027001	:	

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits an Application for Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Application for Patent Term Adjustment, both filed on March 5, 2010.

The petition is **DISMISSED**.

Your petition for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,304,174 is dismissed as untimely. On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of a PTA determination under 37 CFR sec. 1.705(d). See *Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth v. Kappos Regarding Overlapping Delay Provisions of 35 U.S.C. sec. 154(b)(2)(A)*, 75 Fed. Reg. 5043 (Feb. 1, 2010) (notice). Specifically, patent owners were permitted to request recalculation of a patent's PTA in view of the Federal Circuit decision *Wyeth v. Kappos*, 591 F.3d 1364 (Fed. Cir. 2010) up to 180 days after the grant of the patent. The USPTO determined not to accept requests for PTA recalculation more than 180 days after patent grant, however, in view of the statutory judicial-



review provisions of 35 U.S.C. sec. 154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant. The USPTO believes that the statutory 180-day period for seeking court review of the USPTO's PTA determinations, particularly in view of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be resolved shortly after a patent issues. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek USPTO review of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. sec. 154(b)(4) represents the outer limit on the USPTO's ability to conclude its PTA determination."

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.



Anthony Knight  
Director  
Office of Petitions

Cc: FISH AND RICHARDSON, P.C.  
601 LEXINGTON AVE, FLOOR 52  
NEW YORK NY 10022





UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**MAILED**

**DEC 14 2010**

**OFFICE OF PETITIONS**

FISH & RICHARDSON P.C. (NY)  
P.O. BOX 1022  
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,304,174	: ON PETITION
Shinagawa et al.	: UNDER 37 CFR 1.183
Issue Date: 12/04/2007	: and
Application No. 10/830,480	: ON APPLICATION FOR
Filed: 04/23/2004	: PATENT TERM ADJUSTMENT
Attorney Docket No. 14539-0027001	:

This is a decision on the "PETITION UNDER 37 C.F.R. § 1.181(a)(3) TO INVOKE THE SUPERVISORY AUTHORITY OF THE DIRECTOR," filed on September 2, 2010, requesting suspension of the time limit for consideration of an application for patent term adjustment ("PTA"). The response is properly treated as a request for reconsideration of petition under 37 CFR 1.183.

This petition is hereby **DENIED**. This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. *See*, MPEP 1002.02.

Your petition requesting suspension of the time limit for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,304,174 is denied. On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of a PTA determination under 37 CFR sec. 1.705(d). *See, Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth v. Kappos Regarding Overlapping Delay Provisions of 35 U.S.C. sec. 154(b)(2)(A)*, 75 Fed. Reg. 5043 (Feb. 1, 2010) (notice).


Specifically, patent owners were permitted to request recalculation of a patent's PTA in view of the Federal Circuit decision *Wyeth v. Kappos*, 591 F.3d 1364 (Fed. Cir. 2010), up to 180 days after the grant of the patent. The USPTO determined not to accept any requests for PTA recalculation initially filed more than 180 days after patent grant, however, in view of the statutory judicial-review provisions of 35 U.S.C. sec. 154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant. The USPTO believes that the statutory 180-day period for seeking court review of the USPTO's PTA determinations, particularly in view of the six-year statute of limitations that otherwise is



applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be resolved shortly after a patent issues. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek initial USPTO review of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. sec. 154(b)(4) represents the outer limit on the USPTO's ability to consider a patentee's initial request for PTA determination.

The present renewed petition under 37 CFR 1.183 is granted to the extent that the decision of August 3, 2010, has been reconsidered; however, the renewed petition requesting suspension of the time limit for consideration of an application for patent term adjustment under 37 CFR 1.183 is **DENIED**.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.



Anthony Knight  
Director  
Office of Petitions



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

DATE : 10/14/10

Paper No.:     

TO SPE OF : ART UNIT 2628

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/830499 Patent No.: RE41414E

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**  
**Randolph Square -- 9D10-A**  
**Palm Location 7580**

*Virginia Tolbert*

**Certificates of Correction Branch**

**571-272-0460**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

**Specify below which changes do not apply.**

☐ **Denied**

**State the reasons for denial below.**

**Comments:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)

Approved for use through 07/31/2010. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH*\*

Attorney Docket  
Number: EXIN.006C1

Application  
Number: 10/830,781

Filing Date  
(or 371(b) or (f) Date): April 23, 2004

Patent Number: 7,672,883

Issue Date: March 2, 2010

First Named  
Inventor: Barnaby Merrick Harford

Title: SYSTEM AND METHOD FOR MATCHING AN OFFER WITH A QUOTE

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

\**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Maria Culic Anderson/

Date August 30, 2010

Name  
(Print/Typed) Maria Culic Anderson

Registration Number 40574

**Note:** Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below\*.



\*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



**Instruction Sheet for:  
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT  
IN VIEW OF *WYETH*\***  
(Not to be Submitted to the USPTO)

**This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).**

**This form must be filed within 180 days of the day the patent was granted, with the following exception:**

Patentees who received a decision from the USPTO under the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of *Wyeth* (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

**Do not use this form if the application has been allowed, but not yet issued as a patent.**

- 1. For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.
- 2. For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at <http://www.uspto.gov/patents/law/notices/2010.jsp>.

\**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).



## Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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KNOBBE MARTENS OLSON & BEAR LLP  
2040 MAIN STREET  
FOURTEENTH FLOOR  
IRVINE, CA 92614

Mail Date: 09/03/2010

<b>Applicant</b>	: Barnaby Merrick Harford	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7672883	: RECALCULATION of PATENT
<b>Issue Date</b>	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/830,781	: OF WYETH
<b>Filed</b>	: 04/23/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED**.

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A) concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.





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**FEB 02 2012**

**OFFICE OF PETITIONS**

In re Application of	:	
Basem Nayfeh	:	
Application No. 10/830870	:	ON REQUEST FOR RECONSIDERATION
Filing or 371(c) Date: 04/23/2004	:	OF PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
34281-8046.US01	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT INDICATED IN THE NOTICE OF ALLOWANCE UNDER 37 C.F.R. § 1.705(b)," filed January 5, 2012. Applicants petition for reconsideration of the patent term adjustment calculation to 784 days, not 1340 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction based upon an assertion that the Office erred in calculating adjustments of 540 days, and 16 days.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the assertion that the Office erred in calculating adjustments of 540 days, and 16 days, is **GRANTED to the EXTENT INDICATED**.

On October 5, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 1340 days.

On January 5, 2012, applicants timely submitted the instant application for patent term adjustment<sup>1</sup>. Applicants request that the Determination of Patent Term Adjustment be corrected from 1340 days, as indicated on the Determination of PTA mailed October 5, 2011, to an adjustment of 784 days. Applicants aver that the Office erred in calculating adjustments of 540 days, and 16 days.

As to the assertion that the Office erred in calculating adjustments of 540 days, and 16 days, the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed October 5, 2011 indicates a patent term of 1340 days.

<sup>1</sup> PALM records show that the Issue Fee payment was received in the Office on January 5, 2012.



The instant request for reconsideration of patent term adjustment indicates that the Office erred in calculating adjustments of 540 days, and 16 days in connection with the mailing of a Decision by the Board of Patent Appeals and Interferences ("Board"), affirming the Examiner. Applicants provide that the Decision of the Board did not result in reversal of an adverse determination of patentability, and the adjustments of 540 days in connection with the period of appeal, and of 16 days in connection with the mailing of an Office action after the Decision by the Board, are incorrect.

Applicants do not contest an adjustment of 874 days pursuant to 37 CFR 1.702(a)(1), or a reduction of 90 days pursuant to 37 CFR 1.704(b).

As to the assertion that the Office erred in calculating adjustments of 540 days, and 16 days in connection with the mailing of a Decision by the Board affirming the Examiner, a review of Office records confirms that the Examiner was affirmed on appeal, and that the adjustments of 540 days and 16 days are in error and have been removed.

A review of Office records also reveals that the Office mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice"), on July 1, 2004. Applicants filed a reply to the Notice on February 1, 2005, three (3) months and 123 days after the mailing of the Notice. A period of reduction of 123 days pursuant to 37 CFR 1.704(b), beginning on October 2, 2004, and ending on February 1, 2004, is appropriate.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is six hundred sixty-one (661) days (adjustment of 874 days less reductions of 213 days (123 days and 90 days)), subject to any terminal disclaimer.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

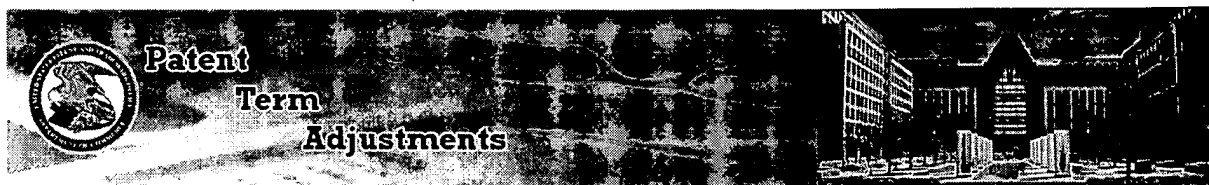
Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods  
Attorney  
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations





PTA/PTE Information    Patent Term Adjustment    Patent Term Extension

Application Number\*: 10830870    [\[Search\]](#)    [Explanation of PTA Calculation](#)    [Explanation of PTE Calculation](#)

PTA Calculations for Application: 10830870

Application Filing Date	04/23/2004	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays	1430
A Delays	1430	PTO Manual Adjustment	-679
B Delays	0	Applicant Delay (APPL)	90
C Delays	0	Total PTA (days)	661

\* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
108	01/31/2012		P028	Adjustment of PTA Calculation by PTO		679	0
97	10/05/2011		MN/=.	Mail Notice of Allowance			0
96	10/01/2011		OAR	Office Action Review			0
95	10/01/2011		OAR	Office Action Review			0
94	10/01/2011		OAR	Office Action Review			0
93	10/01/2011		OAR	Office Action Review			0
92	10/01/2011		IREV	Issue Revision Completed			0
91	09/27/2011		DVER	Document Verification			0
90	09/27/2011		N/=.	Notice of Allowance Data Verification Completed			0
88	09/26/2011		CNTA	Allowability Notice			0
89	09/08/2011		EXIA	Interview Summary- Applicant Initiated			0
87	06/22/2011		ELC_RVW	Electronic Review			0
86	06/22/2011		EML_NTF	Email Notification			0
85	06/22/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
84	06/20/2011		OAR	Office Action Review			0
83	06/17/2011		CTFR	Final Rejection			0
82	05/24/2011		FWDX	Date Forwarded to Examiner			0
81	05/17/2011		A...	Response after Non-Final Action			0
80	04/14/2011		INHY	case Inherited			0
79	04/14/2011		DOCK	Case Docketed to Examiner in GAU			0
78	02/17/2011		ELC_RVW	Electronic Review			0
77	02/17/2011		EML_NTF	Email Notification			0
76	02/17/2011	02/01/2011	MCTNF	Mail Non-Final Rejection	16		63
75	02/14/2011		CTNF	Non-Final Rejection			0
74	12/02/2010		FWDX	Date Forwarded to Examiner			0
71	12/02/2010		ABN9	Disposal for a RCE / CPA / R129			0
73	12/01/2010		AMS8	Amendment Submitted/Entered with Filing of CPA/RCE			0
72	12/01/2010		RCEX	Request for Continued Examination (RCE)			0
70	12/01/2010		BRCE	Workflow - Request for RCE - Begin			0
69	11/17/2010		EML_NTR	Email Notification			0
68	11/17/2010		MM327-E	Mail BOA miscellaneous communication to applicant			0
67	11/15/2010		M327-E	BOA miscellaneous communication to applicant			0
66	10/12/2010		DOCK	Case Docketed to Examiner in GAU			0
65	10/01/2010		ELC_RVW	Electronic Review			0
64	10/01/2010		EML_NTF	Email Notification			0
63	10/01/2010	04/09/2009	MAPDA	Mail BPAI Decision on Appeal - Affirmed	540		32
62	09/29/2010		APDA	BPAI Decision - Examiner Affirmed			0
61	09/20/2010		APCH	Confirmation of Hearing by Appellant			0
60	07/30/2010		APOH	Request for Oral Hearing			0
59	07/30/2010		EML_NTR	Email Notification			0
58	07/30/2010		APNH	Notification of Appeal Hearing			0
57	06/24/2010		EML_NTR	Email Notification			0
55	06/24/2010		MM327	Mail Miscellaneous Communication to Applicant			0
56	06/23/2010		EML_NTR	Email Notification			0
52	06/23/2010		AP_DK_M	Docketing Notice Mailed to Appellant			0
54	06/21/2010		M327	Miscellaneous Communication to Applicant - No Action Count			0
51	06/21/2010		APAS	Assignment of Appeal Number			0
50	06/15/2010		APWD	Appeal Awaiting BPAI Docketing			0
49	06/09/2010		TCBP	TC completion of return order			0
47	04/15/2010		APAR	Administrator Remand to the Examiner by BPAI			0
46	06/26/2009		AP_DK_M	Docketing Notice Mailed to Appellant			0
45	06/25/2009		APAS	Assignment of Appeal Number			0
43	06/22/2009		APWD	Appeal Awaiting BPAI Docketing			0
42	06/16/2009		MRBNE	Mail Reply Brief Noted by Examiner			0
41	06/16/2009		RBNE	Reply Brief Noted by Examiner			0



40	05/12/2009	FWDX	Date Forwarded to Examiner		0
39	05/05/2009	APRB	Reply Brief Filed		0
38	05/05/2009	APOH	Request for Oral Hearing		0
37	03/26/2009	PACC	Exam. Ans. Review Complete		0
36	03/06/2009	MAPEA	Mail Examiner's Answer		0
35	03/02/2009	APEA	Examiner's Answer to Appeal Brief		0
34	01/22/2009	APBR	Appeal Brief Review Complete		0
33	01/22/2009	FWDX	Date Forwarded to Examiner		0
32	12/09/2008	AP.B	Appeal Brief Filed		0
30	12/04/2008	TSSCOMP	IFW TSS Processing by Tech Center Complete		0
31	11/26/2008	N/AP	Notice of Appeal Filed		0
29	10/07/2008	DOCK	Case Docketed to Examiner in GAU		0
28	08/26/2008	MCTFR	Mail Final Rejection (PTOL - 326)		0
27	08/25/2008	CTFR	Final Rejection		0
26	07/09/2008	FWDX	Date Forwarded to Examiner		0
25	05/14/2008	02/14/2008 A...	Response after Non-Final Action	20	23
24	05/14/2008	XT/G	Request for Extension of Time - Granted		0
23	11/14/2007	06/23/2005 MCTNF	Mail Non-Final Rejection	874	0.5
22	11/13/2007	CTNF	Non-Final Rejection		0
19	10/30/2007	DOCK	Case Docketed to Examiner in GAU		0
18	10/17/2007	W525	Withdraw Flagged for 5/25		0
17	10/15/2007	F525	Flagged for 5/25		0
16	01/31/2007	DOCK	Case Docketed to Examiner in GAU		0
15	02/18/2005	OIPE	Application Dispatched from OIPE		0
14	02/18/2005	COMP	Application Is Now Complete		0
13	02/01/2005	FLFEE	Payment of additional filing fee/Preexam		0
12	02/01/2005	CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems		0
11	02/01/2005	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic		0
4	05/26/2004	L194	Cleared by OIPE CSR		0
3	05/26/2004	CLSS	CASE CLASSIFIED BY OIPE		0
2	05/04/2004	SCAN	IFW Scan & PACR Auto Security Review		0
5	04/23/2004	NPRQ	PGPub nonPub Request		0
1	04/23/2004	IEXX	Initial Exam Team nn		0
0.5	04/23/2004	EFILE	Filing date		0

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Alexandria VA 22314

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**MAY 3 1 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,053,021 :  
Zhong et al. :  
Issue Date: May 30, 2006 :  
Application No. 10/830,986 : DECISION ON PETITION  
Filed: April 22, 2004 :  
Atty Docket No. 053-0015PAR :

This is a notice regarding your letter entitled CORRECTION OF ENTITY STATUS PURSUANT TO 37 C.F.R. § 1.28(c) filed February 28, 2011, notifying the Office of loss of entitlement to small entity status and requesting acceptance of a fee deficiency submission as provided for in 37 CFR 1.28.

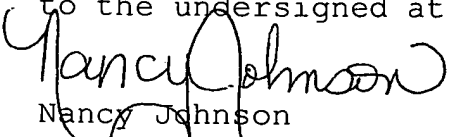
The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

The instant request included an itemization and payment of the deficiency in fees since loss of entitlement to small entity status.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Payment of the deficiency has been treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

  
Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions





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MADISON WI 53701-1497

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**OFFICE OF PETITIONS**

In re Application of	:	
Kekki	:	
Application No. 10/831,182	:	ON APPLICATION FOR
Filed: April 26, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 088245-0140	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed December 10, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand thirty (1030) days, not seven hundred seventy-four (774) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction partly on the basis that the Office will take in excess of three years to issue this patent.

In addition, Applicant discloses an additional period of Applicant delay under 37 CFR 1.704(c)(8) associated with the filing of a supplemental amendment on September 9, 2010.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under



§ 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Determining the excluded appellate period, if any, prior to the determination of the B delay period is premature, as well.

The 100 day adjustment entered in connection with the mailing of a non-final Office action on May 5, 2009 was for Office delay under 73 CFR 1.704(a)(2) in failing to respond to the Notice of Appeal and arguments in the Pre-Appeal Brief Request for Review, filed September 25, 2008, within four months. It is noted that after a conference was held, the panel determined prosecution would be reopened.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that he may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee<sup>1</sup>.

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<sup>1</sup> For example, if an applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the



To the extent that applicant otherwise requests correction of the initial determination of patent term adjustment (PTA), the application for patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is seven hundred fifty-one (751) days. A copy of the updated PAIR screen, showing the determination, is enclosed.

Applicant discloses an additional period of Applicant delay associated with the filing of a supplemental amendment on September 9, 2010.

A review of the patent term adjustment calculations for the above-identified application reveals that the Office failed to enter a reduction for a supplemental amendment, filed on September 9, 2010. After applicant filed a reply on August 17, 2010, applicant submitted a supplemental amendment on September 9, 2010. The record does not support a conclusion that the examiner expressly requested the filing of the supplemental amendment. Thus, applicant failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 23 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, August 18, 2010, and ending on the date that the supplemental reply was filed, September 9, 2010. Accordingly, a period of reduction of 23 days will be entered.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **seven hundred fifty-one (751) days** - 774 days of Office delay - 23 days of Applicant delay.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). The fee is required and will not be refunded.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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calculation of the \$1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

A handwritten signature in cursive script, reading "Shirene Willis Brantley".

Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions





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10/831,182

QUALITY OF SERVICE IN COMMUNICATION SYSTEMS

088245-0140

[P](#)

Select New Case	Application Data	Transaction History	Image File Wrapper	Patent Term Adjustments	Foreign Priority	Published Documents	Address & Attorney/Agent	Display References
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### Patent Term Adjustment

Filing or 371(c) Date:	04-26-2004	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	774
A Delays:	774	PTO Manual Adjustments:	-23
B Delays:	0	Applicant Delays:	0
C Delays:	0	Total PTA Adjustments:	751

### Patent Term Adjustment History

### Explanation Of Calculations

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
83	07-15-2011	Adjustment of PTA Calculation by PTO		23	0
75	09-17-2010	Mail Notice of Allowance			0
74	09-09-2010	Amendment Crossed in Mail			0
73	09-14-2010	Issue Revision Completed			0
72	09-14-2010	Document Verification			0
71	09-14-2010	Notice of Allowance Data Verification Completed			0
70	09-14-2010	Case Docketed to Examiner in GAU			0
69	09-13-2010	Allowability Notice			0
64	08-18-2010	Date Forwarded to Examiner			0
63	08-17-2010	Amendment after Final Rejection			0
62	07-27-2010	Mail Advisory Action (PTOL - 303)			0
61	07-27-2010	Advisory Action (PTOL-303)			0
60	07-18-2010	Date Forwarded to Examiner			0
59	07-16-2010	Amendment after Final Rejection			0
58	06-25-2010	Mail Examiner Interview Summary (PTOL - 413)			0
57	06-23-2010	Examiner Interview Summary Record (PTOL - 413)			0
56	05-25-2010	Mail Final Rejection (PTOL - 326)			0
55	05-24-2010	Final Rejection			0
54	03-17-2010	Date Forwarded to Examiner			0
53	02-23-2010	Response after Non-Final Action			0
52	12-04-2009	Mail Non-Final Rejection			0
51	12-03-2009	Non-Final Rejection			0

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48	09-09-2009	Date Forwarded to Examiner		0
47	08-04-2009	Response after Non-Final Action		0
46	05-05-2009	Mail Non-Final Rejection	100	38
45	05-04-2009	Non-Final Rejection		0
43	02-24-2009	Date Forwarded to Examiner		0
42	02-24-2009	Mail Appeals conf. Reopen Prosec.		0
41	02-18-2009	Pre-Appeals Conference Decision - Reopen Prosecution		0
40	10-23-2008	Case Docketed to Examiner in GAU		0
39	09-25-2008	Request for Pre-Appeal Conference Filed		0
38	09-25-2008	Notice of Appeal Filed		0
37	07-25-2008	Mail Final Rejection (PTOL - 326)		0
36	07-21-2008	Final Rejection		0
35	05-07-2008	Date Forwarded to Examiner		0
34	04-24-2008	Response after Non-Final Action		0
33	02-22-2008	Mail Non-Final Rejection		0
32	02-19-2008	Non-Final Rejection		0
31	01-02-2008	Date Forwarded to Examiner		0
30	12-14-2007	Amendment Submitted/Entered with Filing of CPA/RCE		0
29	01-02-2008	Date Forwarded to Examiner		0
28	12-14-2007	Request for Continued Examination (RCE)		0
27	01-02-2008	Disposal for a RCE / CPA / R129		0
26	12-14-2007	Workflow - Request for RCE - Begin		0
25	10-15-2007	Mail Final Rejection (PTOL - 326)		0
24	10-12-2007	Final Rejection		0
23	08-28-2007	Correspondence Address Change		0
22	08-28-2007	Change in Power of Attorney (May Include Associate POA)		0
21	08-02-2007	Date Forwarded to Examiner		0
20	08-01-2007	Response after Non-Final Action		0
19	07-11-2007	Case Docketed to Examiner in GAU		0
18	05-01-2007	Mail Non-Final Rejection	674	-1
17	04-27-2007	Non-Final Rejection		0
16	01-16-2007	Case Docketed to Examiner in GAU		0
15	10-17-2006	Case Docketed to Examiner in GAU		0



14	10-05-2006	Case Docketed to Examiner in GAU	0
13	03-22-2006	Case Docketed to Examiner in GAU	0
12	01-27-2006	Case Docketed to Examiner in GAU	0
11	08-21-2004	IFW TSS Processing by Tech Center Complete	0
10	04-26-2004	Request for Foreign Priority (Priority Papers May Be Included)	0
9	08-21-2004	Case Docketed to Examiner in GAU	0
8	06-30-2004	Application Return from OIPE	0
7	06-30-2004	Application Return TO OIPE	0
6	06-30-2004	Application Dispatched from OIPE	0
5	07-01-2004	Application Is Now Complete	0
4	05-28-2004	Cleared by OIPE CSR	0
3	05-28-2004	CASE CLASSIFIED BY OIPE	0
2	05-06-2004	IFW Scan & PACR Auto Security Review	0
1	04-26-2004	Initial Exam Team nn	0

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*If you need help:*

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OLTMAN, FLYNN & KUBLER  
915 MIDDLE RIVER DRIVE  
SUITE #415  
FORT LAUDERDALE, FL 33304

**MAILED**  
**MAY 05 2011**  
**OFFICE OF PETITIONS**

In re Patent No. 6,981,777  
Issue Date: January 3, 2006  
Application No. 10/831,186  
Filed: April 26, 2004  
Attorney Docket No. 13115

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: ON PETITION  
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This is a decision on the petition under 37 CFR 1.378(c), filed March 4, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

The patent issued January 3, 2006. The first maintenance fee could have been paid from January 3, 2009 through July 7, 2009, or with a \$65 surcharge during the period from July 8, 2009 through January 3, 2010. Accordingly, the patent expired at midnight April 26, 2009, for failure to timely submit, the (first) 3 ½ year maintenance fee.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (2) above.

Finance records show that petitioner submitted \$450 for the 3 ½ year maintenance fee and the unintentional late payment surcharge of \$1,640 on March 4, 2011. However, the maintenance fee payment was insufficient. If petitioner intends to submit a renewed petition or a request for reconsideration the fee petitioner is required to submit an additional \$15 is required to meet the fee requirements of the petition.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. **No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b).** This is **not** a final agency action within the meaning of 5 U.S.C. § 704.



**Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.**

Further correspondence with respect to this matter should be addressed as follows:

By Mail:                      Mail Stop PETITION  
                                    Commissioner for Patents  
                                    Post Office Box 1450  
                                    Alexandria, VA 22313-1450

By hand:                      U. S. Patent and Trademark Office  
                                    Customer Service Window, Mail Stop Petitions  
                                    Randolph Building  
                                    401 Dulany Street  
                                    Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

/AMW/  
April M. Wise  
Petitions Examiner  
Office of Petitions

cc:      DAVID BARNES  
            4551 WIGGINS LANE  
            WILMER, AL 36587





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OLTMAN, FLYNN & KUBLER  
915 MIDDLE RIVER DRIVE  
SUITE #415  
FORT LAUDERDALE, FL 33304

**MAILED**  
**MAY 17 2011**  
**OFFICE OF PETITIONS**

In re Patent No. 6,981,777  
Issue Date: January 3, 2006  
Application No. 10/831,186  
Filed: April 26, 2004  
Attorney Docket No. 13115

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ON PETITION

**CORRECTED DECISION**

This is a corrected decision on the petition under 37 CFR 1.378(c), filed March 4, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 3, 2010 for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

/AMW/  
April M. Wise  
Petitions Examiner  
Office of Petitions

cc: DAVID BARNES  
4551 WIGGINS LANE  
WILMER, AL 36587



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,907,772	2005-06-21	10/831,255	2004-04-23	P/5517-34

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Joel J Felber/	Date (YYYY-MM-DD)	2011-06-20
Name	Joel J. Felber	Registration Number	59642
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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In re Patent No.	6907772	:
Issue Date:	June 21, 2005	
Application No.	10831255	:DECISION GRANTING PETITION
Filed:	April 23, 2004	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	V1025/20220	:

This is a decision on the electronic petition, filed June 20, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 20, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.





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SUTHERLAND ASBILL & BRENNAN  
999 PEACHTREE STREET NE  
ATLANTA GA 30309

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of	:	
Haik, et al.	:	
Application No. 10/831,493	:	ON REQUEST FOR
Filed: April 23, 2004	:	RECONSIDERATION OF
Attorney Docket Number: 19585-0020	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 2, 2010. Applicants believe that they should be accorded an additional PTA of 539 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.



Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee<sup>1</sup>.

However, a review of the file reveals that applicants should have been assessed additional delay for filing a reply having an omission pursuant to 37 CFR 1.704(c)(7). Applicants filed an RCE on March 10, 2009. However, the Amendment submitted with the RCE was not proper because, *inter alia*, it lacked a complete listing of all the claims. As a result, the Office mailed a Notice of Incomplete Reply on May 28, 2009, to which Applicants responded by filing an Amendment on June 9, 2009. Accordingly, ninety-one (91) additional days of applicant delay should have been assessed pursuant to 37 CFR 1.704(c)(7).

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **six hundred two (602) days** (817 days of PTO delay, reduced by 215 (62+31+91+31) days of Applicant delay).

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.



Anthony Knight  
Director  
Office of Petitions

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<sup>1</sup> For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



Day : Friday  
Date: 8/20/2010

# PALM INTRANET

Time: 16:56:47

## PTA Calculations for Application: 10/831493

Application Filing Date:	04/23/2004	PTO Delay (PTO):	817
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	124
Post-Issue Petitions:	0	Total PTA (days):	602
PTO Delay Adjustment:	-91		

## File Contents History

Number	Date	Contents Description	PTO	APPL	START
67	08/20/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		91	
59	04/05/2010	MAIL NOTICE OF ALLOWANCE			
58	04/01/2010	ISSUE REVISION COMPLETED			
57	04/01/2010	DOCUMENT VERIFICATION			
56	04/01/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
55	04/01/2010	CASE DOCKETED TO EXAMINER IN GAU			
54	03/29/2010	NOTICE OF ALLOWABILITY			
53	12/21/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
52	12/21/2009	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		0	50
51	01/08/2010	DATE FORWARDED TO EXAMINER			
50	12/21/2009	RESPONSE AFTER NON-FINAL ACTION		31	47
49	12/21/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
48	12/21/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	08/20/2009	MAIL NON-FINAL REJECTION			
46	08/17/2009	NON-FINAL REJECTION			
45	06/12/2009	DATE FORWARDED TO EXAMINER			
44	06/09/2009	RESPONSE AFTER NON-FINAL ACTION			
43	05/28/2009	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT			
42	05/26/2009	NOTICE OF INFORMAL OR NON-RESPONSIVE RCE AMENDMENT.			
41	03/11/2009	DATE FORWARDED TO EXAMINER			
		AMENDMENT SUBMITTED/ENTERED WITH			



40	03/10/2009	FILING OF CPA/RCE			
39	03/11/2009	DATE FORWARDED TO EXAMINER			
38	03/10/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
37	03/11/2009	DISPOSAL FOR A RCE / CPA / R129			
36	03/10/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
35	12/10/2008	MAIL FINAL REJECTION (PTOL - 326)			
34	12/08/2008	FINAL REJECTION			
33	09/23/2008	DATE FORWARDED TO EXAMINER			
32	08/21/2008	RESPONSE AFTER NON-FINAL ACTION		31	30
31	08/21/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	04/21/2008	MAIL NON-FINAL REJECTION			
29	04/18/2008	NON-FINAL REJECTION			
28	03/15/2008	DATE FORWARDED TO EXAMINER			
27	02/18/2008	RESPONSE AFTER NON-FINAL ACTION		62	22.
26	02/18/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	02/07/2008	CASE DOCKETED TO EXAMINER IN GAU			
24	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
23	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
22	09/18/2007	MAIL NON-FINAL REJECTION	817		-1
21	09/14/2007	NON-FINAL REJECTION			
20	06/15/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	09/17/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
18	09/02/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17	07/03/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	06/15/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
15	06/15/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	10/28/2004	CASE DOCKETED TO EXAMINER IN GAU			
13	10/28/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12.7	09/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	09/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS)			



		FILED			
11	09/02/2004	REFERENCE CAPTURE ON IDS			
10.7	09/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
10	09/02/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	07/01/2004	APPLICATION RETURN FROM OIPE			
8	07/01/2004	APPLICATION RETURN TO OIPE			
7	07/01/2004	APPLICATION DISPATCHED FROM OIPE			
6	07/01/2004	APPLICATION IS NOW COMPLETE			
5	06/01/2004	CLEARED BY L&R (LARS)			
4	05/26/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	05/26/2004	CASE CLASSIFIED BY OIPE			
2	05/06/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/23/2004	INITIAL EXAM TEAM NN			

Search Another: Application#

#### **EXPLANATION OF PTA CALCULATION**

#### **EXPLANATION OF PTE CALCULATION**

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Back to [OASIS](#) | [Home page](#)



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.: \_\_\_\_\_

DATE : 10/13/10

TO SPE OF : ART UNIT 2835

SUBJECT : Request for Certificate of Correction for Appl. No.: 10831595 Patent No.: 7068522

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (C of C)  
Randolph Square 9D40-D  
Palm Location 7580**

**You can fax the Directors/SPE response to 571-270-9990**

*Lamonte Newsome*

**Certificates of Correction Branch**

**571-272-3421**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
**/Jinhee Lee/ a.U. 2835**



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION  
SPE**

**Art Unit**



Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH*\*

Attorney Docket  
Number: 137786-US-NP

Patent Number: 7,660,239

Filing Date  
(or 371(b) or (f) Date): April 23, 2004

Issue Date: February 9, 2010

First Named  
Inventor: Nelson Willhite

Title: Network data re-routing

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

\**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Gregory J. Murgia/

Date August 9, 2010

Name  
(Print/Typed) Gregory J. Murgia

Registration Number 41,209

**Note:** Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below\*.



\*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.





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UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

VAN PELT, YI & JAMES LLP  
10050 N. FOOTHILL BLVD #200  
CUPERTINO, CA 95014

Mail Date: 08/13/2010

<b>Applicant</b>	: Nelson Willhite	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7660239	: RECALCULATION of PATENT
<b>Issue Date</b>	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/831,629	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 04/23/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1105** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.





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United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

BUHLER ASSOCIATES  
BUHLER, KIRK A.  
1101 CALIFORNIA AVE.  
SUITE 208  
CORONA CA 92881

**MAILED**

**JUN 27 2011**

**OFFICE OF PETITIONS**

In re Patent of May	:
Patent No. 6,881,886	:
Issued: April 19, 2005	: DECISION ON PETITION
Application No. 10/831,638	: UNDER 37 CFR 1.78(a)(3)
Filed: April 23, 2004	:
Attorney Docket No. RM01-01U	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 7, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment/certificate of correction filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since there are gaps in the continuity chain. 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be



By fax: (571) 273-8300  
ATTN: Office of Petitions



By internet:           EFS-Web  
                              [www.uspto.gov/ebc/efs\\_help.html](http://www.uspto.gov/ebc/efs_help.html)  
                              (for help using EFS-Web call the  
                              Patent Electronic Business Center  
                              at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

A handwritten signature in black ink, reading "Shirene Willis Brantley". The signature is written in a cursive, flowing style.

Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Paper No.:**20110608

**DATE** :

**TO SPE OF** : ART UNIT 2628

**SUBJECT** : Request for Certificate of Correction on Patent No.: 10/831,656

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

**Certificates of Correction Branch - ST (South Tower) 9A22**

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance**

**Certificates of Correction Branch**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:**

/Ulka Chauhan/  
Supervisory Patent Examiner, Art Unit 2628





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Alexandria, VA 22313-1450  
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POLSTER LIEDER WOODRUFF & LUCCHESI, L.C.  
SUITE 200  
12412 POWERSCOURT DRIVE  
ST. LOUIS, MO 63131-3615

**MAILED**  
**OCT 24 2011**  
**OFFICE OF PETITIONS**

In re Patent No. 7,334,517 :  
Issue Date: February 26, 2008 :  
Application No. 10/831,722 :  
Filed: April 23, 2004 :  
Attorney Docket No. SMCI 8498C1

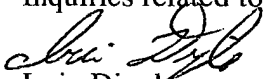
NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

  
Irvin Dingle  
Petitions Examiner  
Office of Petitions



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## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7093936	2006-08-22	10831732	2004-04-22	ZMSI-004PND

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/jacqueline larson/	Date (YYYY-MM-DD)	2011-01-26
Name	Jacqueline S. Larson	Registration Number	30279
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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Commissioner for Patents  
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P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

In re Patent No. 7093936 :  
Issue Date: August 22, 2006 :  
Application No. 10831732 :DECISION GRANTING PETITION  
Filed: April 22, 2004 :UNDER 37 CFR 1.378(c)  
Attorney Docket No. 021674-000320US :

This is a decision on the electronic petition, filed January 31, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 31, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.





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**OPPENHEIMER WOLFF & DONNELLY LLP**  
**45 SOUTH SEVENTH STREET, SUITE 3300**  
**MINNEAPOLIS MN 55402**

**MAILED**

**FEB 07 2011**

**OFFICE OF PETITIONS**

In re Application: :  
Bjarne Bergheim :  
Application No. 10/831,770 : **ON PETITION**  
Filed: April 23, 2004 :  
Attorney Docket No. 22561-7200/US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 20, 2010.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

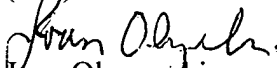
The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

  
Joan Olszewski  
Petitions Examiner  
Office of Petitions

cc: Jeffrey J. Hohenshell  
710 Medtronic Parkway  
Minneapolis, MN 55432





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Peter V. Radatti  
CyberSoft, Inc.  
1958 Butler Pike  
Suite 101  
Conshohocken PA 19428-1202

**MAILED**

**OCT 19 2011**

**OFFICE OF PETITIONS**

In re Application of  
Peter V. Radatii, et al.  
Application No. 10/832,138  
Filed: April 26, 2004  
Attorney Docket No. 24-04

:  
:  
: **DECISION ON PETITION**  
:  
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 29, 2011, to revive the above-identified application.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Frank J. Bonini, Jr., appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

If, Frank J. Bonini, Jr., desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Frank J. Bonini, Jr., the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 5, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 6, 2011.

The petition is hereby **GRANTED**.



The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$930, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2436 for appropriate action by the Examiner in the normal course of business on the reply received.



JoAnne Burke  
Petitions Examiner  
Office of Petitions

cc: Frank J. Bonini, Jr.,  
Harding, Earley, Follmer & Frailey, P.C.  
86 The Commons at Valley Forge East  
1288 Valley Forge Road  
P.O. Box 750  
Valley Forge, PA 19482-0750



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## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7168468	2007-01-30	10832419	2004-04-27	11-039-US

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/>            | 7 ½ year  | (1552) |
| <input type="radio"/>            | 11 ½ year | (1553) |

### Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/> | 7 ½ year  | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Robert A. Muha/	Date (YYYY-MM-DD)	2011-02-25
Name	Robert A. Muha	Registration Number	44249
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

In re Patent No.	7168468	:
Issue Date:	January 30, 2007	:
Application No.	10832419	:DECISION GRANTING PETITION
Filed:	April 27, 2004	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	11-039-US	:

This is a decision on the electronic petition, filed February 25, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 25, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.







By hand: U. S. Patent and Trademark Office  
Customer Service Window, Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/  
Diane C. Goodwyn  
Petitions Examiner  
Office of Petitions

Attachment: Advisory Action



**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/832,574

Applicant(s)

FARBER ET AL.

Examiner

James O. Hansen

Art Unit

3637

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 01 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: 5 and 10-13.  
Claim(s) rejected: 1,3,6-9,14 and 15.  
Claim(s) withdrawn from consideration: 2 and 4.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☒ Other: See Continuation Sheet.

/James O. Hansen/  
Primary Examiner, Art Unit 3637



Continuation of 3. NOTE: The proposed amendments to the claims raise new issues e.g., the amended limitations to claims 3 and 14 for instance along with the incorporation of new claim 16, that would require further consideration and search if entered into the record at this expired stage of the prosecution {abandoned application}.

Continuation of 13. Other: It is noted that claims 2 & 4 are non-compliant since the claimed subject matter needs to be present even when the claim status identifier is "withdrawn".





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**BSH HOME APPLIANCE CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
100 BOSCH BOULEVARD  
NEW BERN NC 28562**

**MAILED**  
**APR 11 2011**  
**OFFICE OF PETITIONS**

In re Application of :  
FARBER, et al :  
Application No. 10/832,574 : **ON PETITION**  
Filed: April 26, 2004 :  
Attorney Docket No. 2001P14046WOUS :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 4, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 23, 2005. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is May 24, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1500; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.



This application is being referred to Technology Center AU 3637 for appropriate action by the Examiner.

/Diane C. Goodwyn/  
Diane C. Goodwyn  
Petitions Examiner  
Office of Petitions





# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/832,599	04/27/2004	L. Dale Foster	7175-202320	3784
69781 7590 08/17/2011 BARNES & THORNBURG, LLP 11 SOUTH MERIDIAN STREET INDIANAPOLIS, IN 46204			EXAMINER TRETTEL, MICHAEL	
			ART UNIT 3673	PAPER NUMBER
			NOTIFICATION DATE 08/17/2011	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

indocket@btlaw.com





UNITED STATES PATENT AND TRADEMARK OFFICE

AUG 16 2011

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www.uspto.gov

Barnes & Thornburg, LLP  
11 South Meridian Street  
Indianapolis, IN 46204

In re Patent No. 6,993,799	:	
Issue Date: February 7, 2006	:	ON PETITION
Application No. 10/832,599	:	TO CORRECT
Filed: April 27, 2004	:	INVENTORSHIP
Attorney Docket No. 7175-202320	:	UNDER 37 CFR 1.324
For: HOSPITAL BED	:	

This is a decision on petition filed July 15, 2011 to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented file is being forwarded to Certificates of Correction Branch for issuance of a certificate naming only the actual inventors.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Peter M. Cuomo at (571) 272-6856.

Peter M. Cuomo  
Supervisory Patent Examiner  
Art Unit 3673  
Technology Center 3600  
(571) 272-6856

pmc 8/15/11





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## UNITED STATES PATENT AND TRADEMARK OFFICE

**CERTIFICATE**

Patent No. 6,993,799

Patented: February 7, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 USC 256, it has been found that the above-identified patent, through error and without any deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

L. Dale Foster  
Ryan Anthony Reeder

Peter M. Cuomo  
Supervisory Patent Examiner  
Art Unit 3673  
Technology Center 3600





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Donald N. Halgren  
35 Central Street  
Manchester, MA 01944

**MAILED**

**FEB 10 2011**

**OFFICE OF PETITIONS**

In re Patent of Lee et al. :  
Patent No. 7,008,879 :  
Issue Date: March 7, 2006 :  
Application No. 10/832,782 :  
Filing Date: April 27, 2004 :  
Attorney Docket No. Semigear-12 :

Decision on Petition

This is a decision on the petition filed September 27, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued March 7, 2006. The last day of the grace period for paying the 3.5 year maintenance fee was March 8, 2010. This petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Therefore, this petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley  
Senior Petitions Attorney  
Office of Petitions



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

DATE : June 30, 2011  
TO SPE OF : ART UNIT 2193  
SUBJECT : Request for Certificate of Correction for Appl. No.: 10832806 Patent No.: 7769798

CofC mailroom date: Nov. 30,  
2010

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**  
**Randolph Square – 9D10-A**  
**Palm Location 7580**

Note: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**Certificates of Correction Branch**  
**703-756-1814** \_\_\_\_\_

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☐ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☒ **Denied**

State the reasons for denial below.

**Comments:** ORDER OF INVENTORS BASED ON ORDER IN  
OATH. NO NEW OATH PROVIDED AND NO PETITION  
UNDER 605.04 f FILED.

\_\_\_\_\_  
**LEWIS A. BULLOCK, JR.**  
**SUPERVISORY PATENT EXAMINER**

2193



**CERTIFICATION AND REQUEST  
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable): 10/833,315	Patent Number (if applicable):
First Named Inventor: Masao KUBO	Title of Invention: Dental Article and Process for Surface Modification of Dental Article

**APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.**

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:
  - a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.
  - b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding.
  - c. The statutory or non-statutory time period set for response has not yet expired.
  - d. Withdrawal and reissuance of the Office communication is requested.
  - e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.
  - f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.
  - g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:
  - a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.
  - b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
  - c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.
  - d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.



**CERTIFICATION AND REQUEST  
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
- The maintenance fee payment was required to have been paid after March 10, 2011.
  - A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
  - The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
  - The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
  - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
  - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. See 35 U.S.C 41(c).
  - This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
- The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
  - The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
  - The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
  - This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature <u>/Ellen R. Smith/</u>	Date <u>April 5, 2011</u>
Name (Print/Typed) <u>Ellen R. Smith</u>	Practitioner Registration Number <u>43,042</u>
<p><b>Note:</b> Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.</p>	
<input type="checkbox"/> *Total of <u>1</u> forms are submitted.	



## Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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**SUGHRUE-265550**  
**2100 PENNSYLVANIA AVE. NW**  
**WASHINGTON DC 20037-3213**

**MAILED**  
**APR 12 2011**  
**OFFICE OF PETITIONS**

In re Application of :  
Kubo et al. :  
Application No. 10/833,315 : **DECISION ON PETITION**  
Filed: April 28, 2004 :  
Attorney Docket No. Q81336 :

This is a decision on the request filed April 5, 2011, seeking relief under the provisions of an announcement by the Under Secretary and Director of the United States Patent and Trademark Office on March 17, 2011, [http://www.uspto.gov/patents/announce/japan\\_relief\\_2011mar17.pdf](http://www.uspto.gov/patents/announce/japan_relief_2011mar17.pdf), providing relief to inventors and patent owners in areas affected by the earthquake and resulting tsunami of March 11, 2011.

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on January 19, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 3776 for re-mailing the Office action of January 19, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/  
Joan Olszewski  
Petitions Examiner  
Office of Petitions





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United States Patent and Trademark Office  
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Alexandria, VA 22313-1450  
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Lando & Anastasi, LLP  
One Main Street, Suite 1100  
Cambridge, MA 02142

**MAILED**

**DEC 03 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,636,805	:	
Rosenberg	:	DECISION UPON REMAND AND
Issue Date: December 22, 2009	:	RECONSIDERATION OF
Application No. 10/833,363	:	PATENT TERM ADJUSTMENT
Filed: April 28, 2004	:	AND NOTICE OF INTENT
Attorney Docket S2003-700210	:	TO ISSUE CERTIFICATE OF
Title: Method and Apparatus for	:	CORRECTION
Communicating Data Between	:	
Hosts	:	

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by five hundred and eighteen (518) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by five hundred and eighteen (518) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries  
Senior Legal Advisor Attorney



Patent No. 7,636,805      Application No. 10/833,363  
Office of Patent Legal Administration  
Office of Associate Commissioner  
For Patent Examination Policy

Page 2

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,636,805

DATED : December 22, 2009

DRAFT

INVENTOR(S) : Rosenberg

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 277 days

Delete the phrase "by 277 days" and insert – by 518 days--



Day : Tuesday  
Date: 11/30/2010**PALM INTRANET**

Time: 11:02:58

PTA Calculations for Application: <u>10/833363</u>			
Application Filing Date:	04/28/2004	PTO Delay (PTO):	541
Issue Date of Patent:	12/22/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	264
Post-Issue Petitions:	0	Total PTA (days):	518
PTO Delay Adjustment:	241		

File Contents History					
Number	Date	Contents Description	PTO	APPL	START
99	11/30/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	241		
93.5	12/02/2009	PTA 36 MONTHS			
93	12/22/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
92	11/13/2009	EXPORT TO FINAL DATA CAPTURE			
91	11/12/2009	DISPATCH TO FDC			
90	11/11/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
89	11/06/2009	STATEMENT FILED INDICATING A LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS			
88	11/06/2009	WORKFLOW - DRAWINGS FINISHED		47	
87	11/06/2009	ISSUE FEE PAYMENT VERIFIED			
86	11/06/2009	ISSUE FEE PAYMENT RECEIVED			
85	09/02/2009	FINISHED INITIAL DATA CAPTURE			
84	08/10/2009	EXPORT TO INITIAL DATA CAPTURE			
81	08/07/2009	MAIL NOTICE OF ALLOWANCE			
80	08/03/2009	ISSUE REVISION COMPLETED			
79	08/03/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
78	07/21/2009	DOCUMENT VERIFICATION			
77	07/21/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
76	06/11/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
75	07/20/2009	NOTICE OF ALLOWABILITY			
70	07/02/2009	DATE FORWARDED TO EXAMINER			
69	06/25/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			



68	07/02/2009	DATE FORWARDED TO EXAMINER			
67	06/25/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
66	07/02/2009	DISPOSAL FOR A RCE / CPA / R129			
65	06/25/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
64	03/03/2009	NOTICE OF APPEAL FILED		90	54
63	03/03/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
62	02/19/2009	EMAIL NOTIFICATION			
61	02/19/2009	MAIL ADVISORY ACTION (PTOL - 303)			
60	02/17/2009	ADVISORY ACTION (PTOL-303)			
59	02/05/2009	DATE FORWARDED TO EXAMINER			
58	02/03/2009	AMENDMENT AFTER FINAL REJECTION			
57	02/03/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
56	09/03/2008	ELECTRONIC REVIEW			
55	09/03/2008	EMAIL NOTIFICATION			
54	09/03/2008	MAIL FINAL REJECTION (PTOL - 326)			
53	08/29/2008	FINAL REJECTION			
52	06/25/2008	DATE FORWARDED TO EXAMINER			
51	06/09/2008	RESPONSE AFTER NON-FINAL ACTION		32	47
50	06/09/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
49	02/10/2008	ELECTRONIC REVIEW			
48	02/09/2008	EMAIL NOTIFICATION			
47	02/08/2008	MAIL NON-FINAL REJECTION			
46	02/04/2008	NON-FINAL REJECTION			
45	01/23/2008	DATE FORWARDED TO EXAMINER			
44	12/26/2007	RCE- AF PROCESSED			
43	01/23/2008	DATE FORWARDED TO EXAMINER			
42	12/26/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		62	33
41	01/23/2008	DISPOSAL FOR A RCE / CPA / R129			
40	12/26/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	12/26/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
38	11/13/2007	EMAIL NOTIFICATION			
37	11/13/2007	MAIL ADVISORY ACTION (PTOL - 303)			
36	11/07/2007	ADVISORY ACTION (PTOL-303)			
35	10/24/2007	DATE FORWARDED TO EXAMINER			
34	10/22/2007	AMENDMENT AFTER FINAL REJECTION			
33	07/25/2007	MAIL FINAL REJECTION (PTOL - 326)			



32	07/21/2007	FINAL REJECTION			
31	12/08/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	08/22/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	08/22/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	05/11/2007	DATE FORWARDED TO EXAMINER			
27	04/23/2007	RESPONSE AFTER NON-FINAL ACTION		33	23
26	04/23/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	12/08/2006	REFERENCE CAPTURE ON IDS			
24.7	12/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	12/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	12/21/2006	MAIL NON-FINAL REJECTION	541		-1
22	12/20/2006	NON-FINAL REJECTION			
20	08/10/2006	CASE DOCKETED TO EXAMINER IN GAU			
19	10/28/2005	MISCELLANEOUS INCOMING LETTER			
18	08/30/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
17	08/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	08/22/2004	REFERENCE CAPTURE ON IDS			
14	07/12/2004	TRANSFER INQUIRY TO GAU			
13	07/06/2004	APPLICATION RETURN FROM OIPE			
12	07/07/2004	APPLICATION IS NOW COMPLETE			
11	07/07/2004	PRE-EXAM OFFICE ACTION WITHDRAWN			
10	07/06/2004	APPLICATION RETURN TO OIPE			
9	07/06/2004	APPLICATION RETURN FROM OIPE			
8	07/07/2004	APPLICATION IS NOW COMPLETE			
7	07/06/2004	APPLICATION RETURN TO OIPE			
6	07/01/2004	APPLICATION DISPATCHED FROM OIPE			
5	07/02/2004	APPLICATION IS NOW COMPLETE			
4	05/27/2004	CLEARED BY OIPE CSR			
3	05/27/2004	CASE CLASSIFIED BY OIPE			
2	05/06/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/28/2004	INITIAL EXAM TEAM NN			

Search Another: Application#







16341

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/833,971	04/28/2004	Steve Angelica		6296
7590 08/10/2010				
Steve Angelica 954 Palm Ave., #103 West Hollywood, CA 90069			EXAMINER BROWN, ALVIN L	
			ART UNIT 3622	PAPER NUMBER
			MAIL DATE 08/10/2010	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.





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Steve Angelica  
954 Palm Ave., #103  
West Hollywood, CA 90069

In re Application of	:	
Steve Angelica	:	DECISION ON PETITION
Application No. 10/833,971	:	TO WITHDRAW FINALITY
Filed: April 28, 2004	:	OF OFFICE ACTION
For: EXPANDING COMPUTER	:	UNDER 37 C.F.R. 1.181
DISPLAY ADVERTISING	:	
METHOD AND SYSTEM	:	

This is in response to applicant's petition under 37 CFR 1.181 filed on April 5, 2010 requesting withdrawal of the finality of the Office action mailed February 19, 2010 as being premature, and requesting a telephonic interview.

The petition is **DISMISSED AS MOOT**.

Applicant alleges that the final rejection mailed February 19, 2010 was premature since this Office action switched the interpretation of the term "coordinates" taught in the Gardner reference, and did not fully respond to all of the arguments raised in the November 18, 2009 request for reconsideration.

MPEP 706.07(a) sets forth that "Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p). Where information is submitted in an information disclosure statement during the period set forth in 37 CFR 1.97(c) with a fee, the examiner may use the information submitted, e.g., a printed publication or evidence of public use, and make the next Office action final whether or not the claims have been amended, provided that no other new ground of rejection which was not necessitated by amendment to the claims is introduced by the examiner. See MPEP § 609.04(b)."



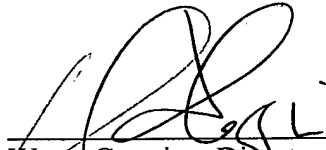
A review of the record indicates that in response to applicant's phone call on April 13, 2010, and per the Interview Summary mailed April 15, 2010, the examiner has already withdrawn finality of the Office action and issued a new, non-final rejection on April 28, 2010. Therefore, applicant's request to withdraw the finality of the February 19, 2010 Office action is dismissed as moot.

Applicant further alleges that "it is Examiner's verbally stated position that no telephonic conference will be considered because a Final Office Action has been issued."

MPEP § 713.09 sets forth that "Normally, one interview after final rejection is permitted. However, prior to the interview, the intended purpose and content of the interview should be presented briefly, preferably in writing. Such an interview may be granted if the examiner is convinced that disposal or clarification for appeal may be accomplished with only nominal further consideration. Interviews merely to restate arguments of record or to discuss new limitations which would require more than nominal reconsideration or new search should be denied. See MPEP § 714.13."

A further review of the record indicates that, per the Interview Summary mailed April 15, 2010, no additional interview was to be conducted until the new Office action issued. It is noted that an interview has since been conducted on June 22, 2010 based on the non-final action that was mailed April 28, 2010. Therefore, applicant's request for a telephonic interview is dismissed as moot.

Any questions regarding this decision should be directed to Eric Stamber at 571-272-6724.

  
\_\_\_\_\_  
Wynn Coggins, Director  
Patent Technology Center 3600  
571-272-5350

EWS: 8/2/10

LM





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/833,971	04/28/2004	Steve Angelica		6296

7590 05/27/2011  
Steve Angelica  
954 Palm Ave., #103  
West Hollywood, CA 90069

EXAMINER
----------

BROWN, ALVIN L

ART UNIT	PAPER NUMBER
3682	

MAIL DATE	DELIVERY MODE
05/27/2011	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.





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MAY 27 2011

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Steve Angelica  
954 Palm Ave., #103  
West Hollywood, CA 90069

In re Application of	:	
Steve Angelica	:	
Application No. 10/833,971	:	DECISION ON PETITION UNDER
Filed: April 28, 2004	:	37 C.F.R. 1.181 TO
For: EXPANDING COMPUTER DISPLAY	:	WITHDRAW FINALITY
ADVERTISING SYSTEM AND METHOD	:	

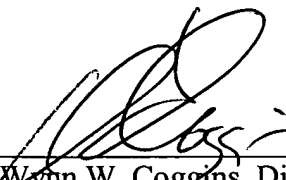
This is in response to applicant's Petition filed on March 24, 2001, requesting withdrawal of the finality of the Office action mailed November 24, 2010 as being premature.

The petition is **DISMISSED AS MOOT**.

Petitioner alleges that the final rejection dated November 24, 2010 was "NON-RESPONSIVE to the actual core MERITS of the claims in their current state, even to the point of disregarding understandings reached in the last telephonic interview."

A review of the record indicates that applicant recently conducted an interview with the examiner and primary examiner on March 31, 2011, has received a detailed interview summary pursuant to the interview discussion mailed April 25, 2011, and has subsequently filed a Request for Continued Examination (RCE) on April 25, 2011. MPEP 706.07 (h) states that "the Office will withdraw the finality of any Office action and the submission will be entered and considered." Therefore, applicant's petition to withdraw the finality of the Office action of November 24, 2010 is moot based on the submission of the RCE. The RCE has been entered and forwarded to the examiner to be taken up in turn.

Any questions regarding this decision should be directed to Eric Stamber at (571) 272-6724.

  
Wynn W. Coggins, Director  
Patent Technology Center 3600  
571-272-5350

EWS: 5/24/11

LM





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**NOV 02 2010**

**OFFICE OF PETITIONS**

FITZPATRICK CELLA HARPER & SCINTO  
1290 Avenue of the Americas  
NEW YORK NY 10104-3800

In re Patent of Oluwole T. Aloba et al.	:	DECISION ON REQUEST
Patent No. 7,572,779	:	FOR RECONSIDERATION OF
Issue Date: August 11, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/833,997	:	AND NOTICE OF INTENT TO
Filing Date: April 29, 2004	:	ISSUE CERTIFICATE OF
Attorney Docket No. 02911.000600.1	:	CORRECTION

This is a decision on the petition filed May 20, 2010, which is being treated as a petition under 37 C.F.R. § 1.181 seeking review of a decision issued April 21, 2010.

The petition is **dismissed as moot**.

Patentees filed a Request for Recalculation of Patent Term Adjustment in View of *Wyeth* ("Wyeth Request") on February 11, 2010.

The Office issued a decision in response to the February 11, 2010 request on April 21, 2010. The decision dismissed the request and stated, "The Request is deemed ineligible for consideration."

On May 18, 2010, the Office *sua sponte* issued a decision vacating the April 21, 2010 decision and granting the February 11, 2010 request. The new decision stated a certificate of correction would be issued setting forth a patent term adjustment of 1,381 days.

The instant petition was filed May 20, 2010. The petition requests reconsideration of the April 21, 2010 decision deeming the February 11, 2010 request ineligible for consideration. Since the Office has vacated the April 21, 2010 decision and considered the February 11, 2010 request, the instant petition is dismissed as moot.

Petitioner has not filed a request reconsideration of the 1,381-day determination of patent term adjustment set forth in the May 18, 2010 decision. Therefore, a certificate of correction setting forth a patent term adjustment of 1,381 days will be issued.

In view of the nature of the petition, a petition fee has not been charged to petitioner's deposit account.



The patent is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **one thousand three hundred eighty-one (1381) days**.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'C. Brantley', with a stylized flourish at the end.

Charles Steven Brantley  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



**UNITED STATES PATENT AND TRADEMARK OFFICE  
CERTIFICATE OF CORRECTION**

PATENT NO. : 7,572,779 B2  
APPLICATION NO. : 10/833,997  
DATED : August 11, 2009  
INVENTOR(S) : Oluwole T. Aloba et al.

**DRAFT**

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 802 days.

Delete the phrase "by 802 days" and insert -- by 1381 days--





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Kent E. Baldauf  
Webb Ziesenheim Logsdon  
Orkin & Hanson, P.C.  
700 Koppers Building  
436 Seventh Avenue  
Pittsburgh PA 15219-1818

**MAILED**  
**NOV 03 2011**  
**OFFICE OF PETITIONS**

In re Application of :  
Tanaka et al. :  
Application No. 10/834794 :  
Filing or 371(c) Date: 04/29/2004 :  
Patent No. 7,368,088 :  
Issue Date: 05/06/2008 :  
Title of Invention: :  
APPARATUS FOR PRODUCING :  
PURIFIED AQUEOUS HYDROGEN :  
PEROXIDE SOLUTION :

ON PETITION

This is a notice regarding request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

A review of the petition reveals that the address appearing on the petition differs from the correspondence address of record. Applicant is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.



Patent No. 7,368,088

Page 2

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods  
Attorney  
Office of Petitions

CC: CPA GLOBAL  
2318 MILL ROAD  
SUITE 12  
ALEXANDRIA, VA 22314





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C/O YEE & ASSOCIATES PC  
P.O. BOX 802333  
DALLAS TX 75380

**MAILED**  
**JUL 29 2011**  
**OFFICE OF PETITIONS**

In re Application of :  
William Preston Alexander III, et al. :  
Application No. 10/835,105 : **ON PETITION**  
Filed: April 29, 2004 :  
Attorney Docket No. AUS920040089US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of April 22, 2011 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on June 23, 2011. See MPEP 1214.06.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1,620; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.



There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)

This application is being referred to Technology Center AU 2183 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Terri Johnson/  
Terri Johnson  
Petitions Examiner  
Office of Petitions



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

DATE : December 15, 2010

Paper No.: \_\_\_\_\_

TO SPE OF : ART UNIT 3671

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/835429 Patent No.: \_\_\_\_\_

CofC mailroom date: 11-30-10

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)  
Randolph Square – 9D10-A  
Palm Location 7580**

**Magdalene Talley**

**Certificates of Correction Branch  
571-272-0423**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

**Comments:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_





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**SEP 20 2011**

**OFFICE OF PETITIONS**

FISH & RICHARDSON P.C. (BO)  
P.O. BOX 1022  
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,983,708	:	DECISION ON REQUEST
Mehrabanzad, et al.	:	FOR
Issue Date: July 19, 2011	:	RECONSIDERATION OF
Application No. 10/835,546	:	PATENT TERM ADJUSTMENT
Filed: April 28, 2004	:	and
Atty Docket No. 12144-0012001	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 12, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred and ninety-three (593) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by **five hundred and thirty-eight (538) days** is **GRANTED to the extent indicated herein**.

The instant petition was filed September 12, 2011. Patentees state, in pertinent part:

Section 154(b)(1)(B)(i) of Title 35 excludes from the calculation of B Delay "any time consumed by continued examination of the application." In the present matter, a Requests for Continued Examination were filed on March 3, 2008, and July 21, 2009. The Director erred in the calculation of the patent term adjustment by subtracting from B Delay a period of time that was not "consumed by continued examination of the application." The PTO mailed a Notice of Allowance on May 26, 2011, thereby closing examination of the application on that date. Thus, no continued examination took place during the 55 day period from



May 26, 2011 (the mailing date of the Notice of Allowance) until July 19, 2011 (the date the patent was issued). Accordingly, 55 days of B Delay should have been included in addition to the 309 days accorded by the Director for a total B Delay of 364 days.

*Excerpt taken from "Application for Patent Term Adjustment under 37 CFR 1.705(d)", filed September 12, 2011, pgs.4-5.*

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)<sup>1</sup>. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35

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<sup>1</sup> Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.



U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.



Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp.2d 138(D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the



United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)<sup>2</sup>. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11<sup>th</sup> ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b) (the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

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<sup>2</sup> Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.



The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the issuance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under



35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures<sup>3</sup> permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the

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<sup>3</sup> Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.



patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on March 3, 2008, and the patent issued by virtue of that request on July 19, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on March 3, 2008, and ending on July 19, 2011, is not included in calculating Office delay.

Patentees also note that reductions to the patent term adjustment under 37 CFR 1.704(c)(8) are warranted for the filing of a supplemental replies on March 4, 2008, and December 9, 2008. A review of the application file history reveals that a reduction to the patent term adjustment of 1 day is warranted for the filing of the supplemental paper on March 4, 2008, with said period beginning March 4, 2008, and ending March 4, 2008. **A period of reduction to the patent term adjustment of 1 day is being entered, accordingly.** Further, a review of the application file history reveals that a reduction to the patent term adjustment of 14 days is warranted for the filing of the supplemental paper on December 9, 2008, with said period beginning November 26, 2008, and ending December 9, 2008. **A period of reduction to the patent term adjustment of 14 days is being entered, accordingly.**



In re Patent No. 7,983,708      Application No. 10/835,546

9

Accordingly, the revised patent term adjustment is 538 days (689 days "A" delay + 309 days "B" delay - 20 days of overlap - 440 days of applicant delay.)

The petition fee of \$200.00 required by 37 CFR 1.18 was received on September 12, 2011.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred and thirty-eight (538) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



**DRAFT COPY**

UNITED STATES PATENT AND TRADEMARK OFFICE

**CERTIFICATE OF CORRECTION**

PATENT : 7,983,708 B2

DATED : Jul. 19., 2011

INVENTOR(S) : Mehrabanzad, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (553) days

Delete the phrase "by 553 days" and insert – by 538 days--





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Greg H. Leitich  
P.O. Box 3255  
Austin TX 78764

**MAILED**

**NOV 21 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,268,727	:	
Issue Date: September 11, 2007	:	ON PETITION
Application No. 10/835,699	:	
Filed: April 30, 2004	:	

This is a decision on the petition under 37 CFR 1.378(c), filed November 4, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified application.

The petition is **GRANTED**.

The patent expired on September 12, 2011 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

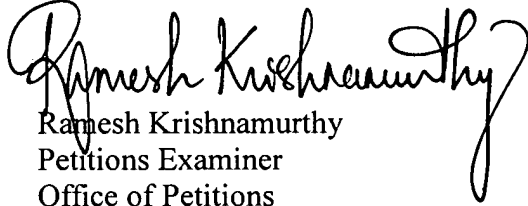
There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

In accordance with petitioner's instructions, the three and one-half year maintenance fee, and surcharge after expiration for unintentional late payment of the maintenance fee, \$2205, will be charged to deposit account 23-1925.



The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mailing date of this decision.

Telephone inquiries regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

  
Ramesh Krishnamurthy  
Petitions Examiner  
Office of Petitions



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**DATE** : 03-10-12

**TO SPE OF** : ART UNIT 1788

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 10/835865 Patent No.: 7879441

**CofC mailroom date:** 03-02-12

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

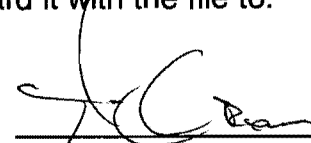
Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)  
Randolph Square – 9D10-A  
Palm Location 7580

**Note:** \_\_\_\_\_  
\_\_\_\_\_



Angela Green 571.272.9005

CofC Branch 703-756-1814

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SPE** /Alicia Chevalier/

**Art Unit** 1788





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/835,916	04/30/2004	Yasuo Urata	228464	9433
23460 7590 01/18/2011 LEYDIG VOIT & MAYER, LTD TWO PRUDENTIAL PLAZA, SUITE 4900 180 NORTH STETSON AVENUE CHICAGO, IL 60601-6731			EXAMINER SZNAIDMAN, MARCOS L	
			ART UNIT 1628	PAPER NUMBER
			NOTIFICATION DATE 01/18/2011	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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JAN 18 2011

LEYDIG VOIT & MAYER, LTD  
TWO PRUDENTIAL PLAZA, SUITE 4900  
180 NORTH STETSON AVENUE  
CHICAGO IL 60601-6731

In re Application of:

Urata et al.

Serial No.: 10/835,916

Filed: April 30, 2004

Attorney Docket No.: 228464

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: PETITION DECISION  
:  
:

This is in response to the petition under 37 CFR § 1.181, filed November 2, 2010, requesting that the Examiner's Answer be designated as having a new ground of rejection.

#### BACKGROUND

Only the Office action(s) pertinent to the petition will be discussed herein.

The examiner mailed an Examiner's answer on September 2, 2010. At the time of this Office action, claims 54, 63-76, 78 and 85-96 were on appeal. Claims 54, 63-71, 78, and 85-95 were rejected under 35 USC 103(a) as being unpatentable over Keller et al. in view of Robl et al. Claims 72-76 were rejected under 35 USC 103(a) as being unpatentable over Keller et al. and Robl et al. as applied to claims 54, 63-71, 78 and 85-95 above, and further in view of Cullinan et al. and Shepherd. Claim 96 was rejected under 35 USC 103(a) as being unpatentable over Keller et al. in view of Robl et al. as applied to claims 54, 63-71, 78 and 85-95 above, further in view of Gumkowski et al. A new matter rejection of claims 54, 63-76, 78 and 85-96 over the language "consisting essentially of" was withdrawn in this Examiner's Answer.

In response thereto, applicants filed this petition on November 2, 2010, requesting that the Examiner's Answer of September 2, 2010 be designated as having a new grounds of rejection.



## DISCUSSION

The petition and the file history have been carefully considered.

Petitioners argue that "During prosecution, Applicants amended the pending claims to change the claim transition phrase "comprising" to "consisting essentially of." The first rejection listed above was a "new matter" rejection based on the Examiner's belief that the newly introduced claim transition phrase "consisting essentially of" was not supported by the specification and, therefore, constituted new matter. As a result of the "new matter" rejection, the Examiner based the remaining rejections - i.e., the four obviousness rejections - on the scope of the claims as existing prior to the amendment of the pending claims, which utilized the claim transition phrase "comprising."

The Examiner withdrew the "new matter" rejection in the Examiner's Answer dated September 2, 2010. The Examiner then proceeded - for the first time during the pendency of the present application - to construe the claims as amended (i.e., as the claims actually currently read) with the claim transition phrase "consisting essentially of" and to discuss the obviousness rejections in view of the newly construed claims.

In doing so, the Examiner essentially has raised new issues on appeal, namely a claim construction issue and related obviousness rejections that were not previously presented during prosecution prior to appeal and to which Applicants previously have not had an opportunity to respond in the course of normal prosecution.

While the wording of the four obviousness rejections has not changed, and while the Examiner continues to rely on the same references in support of the four obviousness rejections, the nature of the obviousness rejections - which were premised on a different claim construction - has changed. As a result, the four obviousness rejections should have been designated as "new grounds of rejection" in the Examiner's Answer in accordance with the provisions of 37 C.F.R. § 41.39."

Applicants' arguments have been carefully considered but they are not persuasive. Applicants state "The Examiner then proceeded- for the first time during the pendency of the present application- to construe the claims as amended (i.e., as the claims actually currently read) with the claim transition phrase "consisting essentially of" and to discuss the obviousness rejections in view of the newly construed claims". However, this is not correct as it is clear from the prosecution history of the application that the Examiner was interpreting "consisting essentially of" to be equivalent to "comprising" citing MPEP 2111.03 (see, for example, page 5 of the final Office action of September 17, 2009) which is consistent with the interpretation in the Appeal brief. Consequently, the Examiner's Answer of September 2, 2010 is not seen to raise a new ground of rejection and will not be designated as having such new grounds of rejection contained therein.



## DECISION

The petition is **DENIED.**

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.



Remy Yucel  
Director, Technology Center 1600





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/835,916	04/30/2004	Yasuo Urata	228464	9433
<div>23460      7590      03/28/2011</div> <div>LEYDIG VOIT &amp; MAYER, LTD</div> <div>TWO PRUDENTIAL PLAZA, SUITE 4900</div> <div>180 NORTH STETSON AVENUE</div> <div>CHICAGO, IL 60601-6731</div>				
			<div>EXAMINER</div> <div>SZNAIDMAN, MARCOS L</div>	
			<div>ART UNIT</div> <div>1628</div>	<div>PAPER NUMBER</div>
			<div>NOTIFICATION DATE</div> <div>03/28/2011</div>	<div>DELIVERY MODE</div> <div>ELECTRONIC</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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MAR 28 2011

LEYDIG VOIT & MAYER, LTD  
TWO PRUDENTIAL PLAZA, SUITE 4900  
180 NORTH STETSON AVENUE  
CHICAGO IL 60601-6731

In re Application of:  
Urata et al.

Serial No.: 10/835,916

Filed: April 30, 2004

Attorney Docket No.: 228464

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:  
: PETITION DECISION  
:  
:

This is in response to the renewed petition under 37 CFR § 1.181, filed February 28, 2011, requesting that the Examiner's Answer be designated as having a new ground of rejection.

#### BACKGROUND

Only the Office action(s) pertinent to the petition will be discussed herein.

The examiner mailed an Examiner's answer on September 2, 2010. At the time of this Office action, claims 54, 63-76, 78 and 85-96 were on appeal. Claims 54, 63-71, 78, and 85-95 were rejected under 35 USC 103(a) as being unpatentable over Keller et al. in view of Robl et al. Claims 72-76 were rejected under 35 USC 103(a) as being unpatentable over Keller et al. and Robl et al. as applied to claims 54, 63-71, 78 and 85-95 above, and further in view of Cullinan et al. and Shepherd. Claim 96 was rejected under 35 USC 103(a) as being unpatentable over Keller et al. in view of Robl et al. as applied to claims 54, 63-71, 78 and 85-95 above, further in view of Gumkowski et al. A new matter rejection of claims 54, 63-76, 78 and 85-96 over the language "consisting essentially of" was withdrawn in this Examiner's Answer.

In response thereto, applicants filed a petition on November 2, 2010, requesting that the Examiner's Answer of September 2, 2010 be designated as having a new grounds of rejection.

A decision on petition was mailed to applicants on January 18, 2011 denying that the Examiner's Answer of September 2, 2010 contained new grounds of rejection.



In response thereto, applicants filed this renewed petition on February 28, 2011, requesting reconsideration of the petition decision of January 18, 2011.

## DISCUSSION

The renewed petition and the file history have again been carefully considered.

Petitioners argue that "While the wording of the four obviousness rejections has not changed by way of the Examiner's Answer, and while the Examiner's Answer relies on the same references in support of the four obviousness rejections utilized in the most recent Office Action, the nature of the obviousness rejections - which were premised on a different claim construction - has changed between the most recent Office Action and the Examiner's Answer. As a result, the four obviousness rejections should have been designated as "new grounds of rejection" in the Examiner's Answer in accordance with the provisions of 37 C.F.R. § 41.39. However, the Examiner has not formally designated the obviousness rejections based on the new claim construction as "new grounds of rejection" in accordance with 37 C.F.R. § 41.39, but rather has presented the obviousness rejections as merely having been maintained from earlier prosecution (Examiner's Answer, page 3, first paragraph). Applicants respectfully submit that the Examiner should have either designated the obviousness rejections as "new grounds of rejection" in the Examiner's Answer or merely reopened prosecution inasmuch as the Examiner - for the first time - is construing the claims as they had previously been amended to read and the obviousness rejections are based on that new claim construction. Accordingly, Applicants have never been afforded the opportunity to fully respond to a formal interpretation of "consisting essentially of" by the Examiner during the course of normal prosecution. If the Examiner had reopened prosecution and issued a new Office Action setting forth the Examiner's new position, then Applicants would have responded to the Examiner's new claim construction and obviousness rejections based thereon as set forth in the new Office Action in the normal course of prosecution. Similarly, if the Examiner had properly designated the obviousness rejections as "new grounds of rejection" in the Examiner's Answer, then - in accordance with the options provided by 37 C.F.R. § 41.39(b) - Applicants would have filed a reply under 37 C.F.R. § 1.111 to reopen prosecution to address the Examiner's new claim construction and obviousness rejections based thereon, rather than file a Reply Brief.

For the foregoing reasons, Applicants respectfully request reconsideration of the Decision on Petition and the invocation of the Commissioner's supervisory authority in this application to direct the Examiner to either reopen prosecution by issuing a new, non-final Office Action or to designate the obviousness rejections in the Examiner's Answer as "new grounds of rejection" under 37 C.F.R. § 41.39, thereby enabling Applicants to request that prosecution be reopened by filing a reply under 37 C.F.R. § 1.111."

Applicants' arguments have been carefully considered but they are not persuasive. It is clear from the prosecution history of the application that the Examiner was interpreting "consisting essentially of" to be equivalent to "comprising" citing MPEP 2111.03 (see, for example, page 5 of the final Office action of September 17, 2009 and page 3 of the Advisory action of January 5, 2010) which is consistent with the interpretation in the Appeal brief. The examiner has



repeatedly set forth his position that the terms "consisting essentially of" and "comprising" were interpreted to be equivalent. His position was set forth in the final Office action, the Advisory Action and the Examiner's Answer. Consequently, since no ambiguity existed, the Examiner's Answer of September 2, 2010 is not seen to raise a new ground of rejection and will not be designated as having such new grounds of rejection contained therein since the position of the examiner has been clear since the final Office action.

## **DECISION**

The petition is again **DENIED**.

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.



Remy Yucel  
Director, Technology Center 1600





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P.O. BOX 1497  
MADISON WI 53701-1497

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**DEC 01 2011**

**OFFICE OF PETITIONS**

In re Application of	:	
Reed et al.	:	
Application No. 10/836,094	:	ON APPLICATION FOR
Filed: April 29, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 098888-1838	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed November 28, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand five hundred twenty-five (1525) days, not eight hundred five (805) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.



Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee<sup>1</sup>.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). This fee is required and will not be refunded.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).


The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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<sup>1</sup> For example, if an applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then the applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the 37 CFR 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

  
Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions



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## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7168711	2007-01-30	10836169	2004-04-30	BVJON-1021598

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/David R. Heckadon/	Date (YYYY-MM-DD)	2011-05-10
Name	David R. Heckadon	Registration Number	50184
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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In re Patent No. 7168711 :  
Issue Date: January 30, 2007 :  
Application No. 10836169 :DECISION GRANTING PETITION  
Filed: April 30, 2004 :UNDER 37 CFR 1.378(c)  
Attorney Docket No. BVJON 1021598 :

This is a decision on the electronic petition, filed May 10, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 10, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.





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**OFFICE OF PETITIONS**

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500 WEST MADISON STREET  
SUITE 3400  
CHICAGO IL 60661

In re Application :  
Nungess, et al. :  
Application No. 10/836,288 : PATENT TERM ADJUSTMENT  
Filing or 371(c) Date: April 30, 2004 :  
Dkt. No.: 1578-15455US01 :

This is in response to the application for patent term adjustment filed July 9, 2010. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 1,086 days, not 391 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment mailed April 26, 2010. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent. Applicants further contest the reduction of 92 days in connection with the reply filed August 14, 2007.

37 CFR 1.702(b)

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.



Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee<sup>1</sup>.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

#### 37 CFR 1.704(c)(7)

Applicant contests the reduction of 92 days assessed pursuant to §1.704(c)(7). Applicant asserts that the submission is not a reduction within the meaning of § 1.704(c)(7) because the examiner acknowledged in the non-final Office action mailed November 13, 2007 that the initial reply filed May 14, 2007 was fully responsive to the restriction requirement mailed March 14, 2007.

The record has been carefully reviewed and applicant's arguments have been carefully considered and found persuasive. As a result, the reduction of 92 days has been restored.

Further, as the reply filed May 14, 2007 was deemed fully responsive to the restriction requirement mailed March 14, 2007, the application is entitled to an additional adjustment of 63 days pursuant to § 1.703(a)(2). The adjustment commenced September 15, 2007, the day after the date that is four months after the date that a reply to the restriction requirement was filed, and ended November 16, 2007, the date that the non-final Office action was mailed.

In view thereof, the petition with regard to the § 1.704(c)(7) reduction is GRANTED TO THE EXTENT INDICATED HEREIN.

#### CONCLUSION

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<sup>1</sup> For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



Accordingly, for the reasons set forth herein, as of the time of allowance, the application was entitled to an overall adjustment of 546 days (622 days per § 1.703(a)(1) + 63 days per § 1.703(a)(2) -139 days for applicant delay per § 1.704).

Receipt is hereby acknowledged of the \$200.00 patent term adjustment application fee required per 37 CFR 1.705(b)(1).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

*/ALESIA M. BROWN/*

Alesia M. Brown  
Petitions Attorney  
Office of Petitions

Enclosure:     Adjusted PAIR Calculation



# PALM INTRANET

Day : Saturday  
Date: 9/4/2010  
Time: 14:25:49

## PTA Calculations for Application: 10/836288

Application Filing Date:	04/30/2004	PTO Delay (PTO):	622
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	231
Post-Issue Petitions:	0	Total PTA (days):	546
PTO Delay Adjustment:	155		

## File Contents History

Number	Date	Contents Description	PTO	APPL	START
86	09/04/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	63		
85	09/04/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	92		
77	04/26/2010	MAIL NOTICE OF ALLOWANCE			
76	04/25/2010	ISSUE REVISION COMPLETED			
75	04/25/2010	DOCUMENT VERIFICATION			
74	04/25/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
73	04/23/2010	EXAMINER'S AMENDMENT COMMUNICATION			
72	04/23/2010	NOTICE OF ALLOWABILITY			
71	03/01/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
67	02/27/2010	DATE FORWARDED TO EXAMINER			
66	02/02/2010	RESPONSE AFTER NON-FINAL ACTION			
65	05/19/2009	REFERENCE CAPTURE ON IDS			
64	05/19/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	11/03/2009	MAIL NON-FINAL REJECTION			
62	10/30/2009	NON-FINAL REJECTION			
61	05/19/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
60	08/30/2009	DATE FORWARDED TO EXAMINER			
59	07/06/2009	RESPONSE AFTER NON-FINAL ACTION		32	56
58	07/06/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
57	05/19/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
56	03/04/2009	MAIL NON-FINAL REJECTION			
55	03/02/2009	NON-FINAL REJECTION			
54	12/27/2008	DATE FORWARDED TO EXAMINER			



53	12/23/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
52	12/27/2008	DATE FORWARDED TO EXAMINER			
51	12/23/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)		88	42
50	12/27/2008	DISPOSAL FOR A RCE / CPA / R129			
49	12/23/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
48	12/23/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
47	11/03/2008	MAIL ADVISORY ACTION (PTOL - 303)			
46	10/31/2008	ADVISORY ACTION (PTOL-303)			
45	10/20/2008	DATE FORWARDED TO EXAMINER			
44	10/16/2008	AMENDMENT AFTER FINAL REJECTION			
43	10/16/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
42	06/26/2008	MAIL FINAL REJECTION (PTOL - 326)			
41	06/23/2008	FINAL REJECTION			
40	03/06/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
39	04/09/2008	DATE FORWARDED TO EXAMINER			
38	03/06/2008	RESPONSE AFTER NON-FINAL ACTION		19	36
37	03/06/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
36	11/16/2007	MAIL NON-FINAL REJECTION			
35	11/13/2007	NON-FINAL REJECTION			
32	01/20/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
31	05/14/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	10/05/2007	CASE DOCKETED TO EXAMINER IN GAU			
29	09/04/2007	DATE FORWARDED TO EXAMINER			
28	08/14/2007	RESPONSE TO ELECTION / RESTRICTION FILED		92	21
27	08/14/2007	CASE DOCKETED TO EXAMINER IN GAU			
26	07/24/2007	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
24	05/14/2007	REFERENCE CAPTURE ON IDS			
23	05/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	05/19/2007	DATE FORWARDED TO EXAMINER			
21.1	05/14/2007	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
21	05/14/2007	RESPONSE TO ELECTION / RESTRICTION FILED			



20	05/14/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	05/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	03/14/2007	MAIL RESTRICTION REQUIREMENT	622		-1
17	03/13/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
16	01/20/2007	REFERENCE CAPTURE ON IDS			
15.7	01/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	01/20/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/03/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
13	03/03/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	08/30/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
11	09/24/2004	APPLICATION RETURN FROM OIPE			
10	09/24/2004	APPLICATION RETURN TO OIPE			
9	09/24/2004	APPLICATION DISPATCHED FROM OIPE			
8	09/24/2004	APPLICATION IS NOW COMPLETE			
7	09/02/2004	ADDITIONAL APPLICATION FILING FEES			
6	09/02/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	07/06/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	06/07/2004	CLEARED BY OIPE CSR			
3	06/07/2004	CASE CLASSIFIED BY OIPE			
2	06/01/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	04/30/2004	INITIAL EXAM TEAM NN			

Search Another: Application#

#### EXPLANATION OF PTA CALCULATION

#### EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to [OASIS](#) | Home page





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THE LAW OFFICE OF JANE K. BABIN,  
PROFESSIONAL CORPORATION  
C/O INTELLEVATE  
P.O. BOX 52050  
MINNEAPOLIS MN 55402

**MAILED**

**FEB 08 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,157,587  
Issue Date: January 2, 2007  
Application No. 10/836,367  
Filed: April 30, 2004  
Attorney Docket No. 107-01110

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on October 8, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

**Applicant is encouraged to note 37 CFR 1.4(c) where a separate paper should be submitted for each file.**

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/  
Karen Creasy  
Petitions Examiner  
Office of Petitions





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**Locke, Lord, Bissell & Liddell, LLP**  
**Attn: Michael Ritchie, Docketing**  
**2200 Ross Avenue**  
**Suite #2200**  
**Dallas, TX 75201-6776**

**MAILED**  
**JUN 20 2011**  
**OFFICE OF PETITIONS**

In re Application of	:	
Lester Kuperman	:	
Application No. 10/836,375	:	DECISION ON PETITION
Filed: April 30, 2004	:	TO WITHDRAW
Attorney Docket No. K1148-/20001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 6, 2011.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to Locke, Lord, Bissell & Liddell, LLP, has been revoked by the assignee of the patent application on June 6, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet  
Petitions Examiner  
Office of Petitions

cc: Caesar, Rivise, Bernstein,  
Cohen & Pokotilow, Ltd.  
11<sup>th</sup> Floor, Seven Penn Center  
1635 Market Street  
Philadelphia, PA 19103-2212





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In re Patent No.	7141739	:
Issue Date:	November 28, 2006	:
Application No.	10836552	:DECISION GRANTING PETITION
Filed:	April 30, 2004	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	N1085-00268	:

This is a decision on the electronic petition, filed February 11, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 11, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7141739	2006-11-28	10836552	2004-04-30	N1085-00268

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |   | Fee | Code   |
|---|-----|--------|
| <input checked="" type="radio"/> 3 ½ year |     | (1551) |
| <input type="radio"/> 7 ½ year            |     | (1552) |
| <input type="radio"/> 11 ½ year           |     | (1553) |

### Small Entity

- |                                 | Fee | Code   |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year  |     | (2551) |
| <input type="radio"/> 7 ½ year  |     | (2552) |
| <input type="radio"/> 11 ½ year |     | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Steven E. Koffs/	Date (YYYY-MM-DD)	2011-02-11
Name	Steven E. Koffs	Registration Number	37163
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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DUANE MORRIS LLP (TSMC)  
IP DEPARTMENT  
30 SOUTH 17TH STREET  
PHILADELPHIA PA 19103-4196

**MAILED**  
**APR 11 2011**  
**OFFICE OF PETITIONS**


In re Patent No. 7,141,739	:	
Issue Date: November 28, 2006	:	
Application No. 10/836,552	:	ON PETITION
Filed: April 30, 2004	:	
Attorney Docket No. N1085-00268	:	

This is a decision on the petition filed March 4, 2011, which is being treated as a request under 37 CFR 3.81(b)<sup>1</sup> to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

  
Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions

<sup>1</sup> See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.





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HEWLETT-PACKARD COMPANY  
INTELLECTUAL PROPERTY ADMINISTRATION  
3404 E. HARMONY ROAD  
MAIL STOP 35  
FORT COLLINS, CO 80528

In re Application of	:	
Christopher G. Malone, et al.	:	
Application No. 10/836,665	:	DECISION ON PETITION
Filed: April 29, 2004	:	
Attorney Docket No. 200311428-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 29, 2010, to revive the above-identified application.

This application became abandoned as a result of petitioner's failure to file a complete and proper appeal brief within the time period provided in 37 CFR 41.37(a)(1). As a complete and proper appeal brief was not filed within one (1) month of the Notification of Non-Compliance with 37 CFR 41.37(c)(1), mailed October 23, 2008, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 24, 2008. See MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Appeal Brief, (2) the petition fee of \$1620, and (3) a proper statement of unintentional delay.

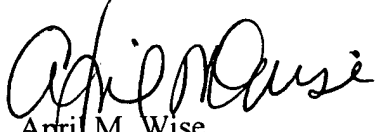
In view of the above, the petition is **GRANTED**.

As authorized, the \$1620 fee required by 37 CFR 1.137(b) has been charged to petitioner's Deposit Account No. 08-2025.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.



This application is being referred to Technology Center AU 3744 for appropriate action by the Examiner in the normal course of business on the reply received July 29, 2010.

  
April M. Wise  
Petitions Examiner  
Office of Petitions





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ALSTON & BIRD, LLP  
BANK OF AMERICA PLAZA  
101 SOUTH TRYON STREET, SUITE 4000  
CHARLOTTE NC 28280-4000

**MAILED**

**SEP 20 2011**

**OFFICE OF PETITIONS**

In re Application of	:	
Matthew E. Berge	:	
Application No. 10/836714	:	
Filing or 371(c) Date: 04/30/2004	:	
Attorney Docket Number:	:	
038190/277280	:	ON PETITION

This is a decision on the "Petition Under 37 C.F.R. 1.181(a) to Withdraw Holding of Abandonment in Accordance with MPEP § 711.03(c) and 1156 O.G. 53," filed September 1, 2011.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely file a brief after filing a Notice of Appeal. Applicant filed a Notice of Appeal, and a Pre-Appeal Brief Request for Review on January 7, 2011. The Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review, ("Notice"), on February 14, 2011, stating that the application remained under appeal. The Notice set the time period for filing an appeal brief to one (1) month from the mailing of the Notice, or the balance of the two (2) month period running from receipt of the Notice of Appeal (filed January 7, 2011), whichever was greater. A Notice of Abandonment was mailed August 17, 2011.

Applicant files the present petition to withdraw the holding of abandonment and asserts that a timely Appeal Brief was filed on August 15, 2011, including a request and fee for a five (5) month extension of time. In support of this assertion, Applicant directs the Office's attention to the Patent Application Information and Retrieval System ("PAIR"), where applicant provides that the documents are available.

A review of Office records confirms that Applicant filed an Appeal Brief and five (5) month extension of time request and fee on August 15, 2011. A review of the application file reveals that the due date for reply, August 14, 2011, fell on a Sunday. As such, and in accordance with



37 CFR 1.6, the correspondence is considered timely as it was taken on the next succeeding business day. See, MPEP 505<sup>1</sup>.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 3623 for processing of the Appeal Brief and extension of time and fee, and for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods  
Attorney  
Office of Petitions

---

<sup>1</sup> The MPEP 505 states: The United States Patent and Trademark Office (Office) stamps papers and fees with the date of their receipt in the Office. The stamp is referred to as the "Office Date" stamp. When the last day for taking any action or paying any fee in the Office falls on a Saturday, Sunday, or a Federal holiday within the District of Columbia, the action or the fee is considered timely if the action is taken or the fee is paid on the next succeeding business day.



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.: \_\_\_\_\_

DATE : 08/31/10

TO SPE OF : ART UNIT 2839

SUBJECT : Request for Certificate of Correction for Appl. No.: 10836728 Patent No.: 7275937

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (C of C)  
Randolph Square 9D40-D  
Palm Location 7580**

**You can fax the Directors/SPE response to 571-270-9990**

*Lamonte Newsome*

Certificates of Correction Branch

703-756-1574

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:** Changes are approved

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**  
**/Tulsidas C. Patel/**

---

**SPE**  
**2839**

**Art Unit**





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Paper No.

FISH & RICHARDSON P.C.  
P.O. BOX 1022  
MINNEAPOLIS MN 55440-1022

**MAILED**  
**JAN 20 2011**  
**OFFICE OF PETITIONS**

In re Patent No. 7,476,382	: DECISION ON REQUEST
Lee et al.	: FOR
Issue Date: 01/13/2009	: RECONSIDERATION OF
Application No. 10/836,857	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 04/30/2004	: and
Atty Docket No.	: NOTICE OF INTENT TO ISSUE
16596-002006	: CERTIFICATE OF CORRECTION

This is a decision on the RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed on October 7, 2009, which is being treated as a renewed petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred fifty-nine (859) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred fifty-nine (859) days is **GRANTED**.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred fifty-nine (859)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,476,382 B2

DATED : Jan. 13, 2009

DRAFT

INVENTOR(S) : Lee et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 471 days.

Delete the phrase "by 471 days" and insert – by 859 days--





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FROST BROWN TODD, LLC  
2200 PNC CENTER  
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CINCINNATI OH 45202

**MAILED**

FEB 15 2011

**OFFICE OF PETITIONS**

In re Application of  
Njus, et al.  
Application No. 10/836,942  
Filed: April 30, 2004  
Attorney Docket No. 103012/0520714

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

*/ALESIA M. BROWN/*

Alesia M. Brown  
Attorney Advisor  
Office of Petitions





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Bib Data Sheet

CONFIRMATION NO. 2281

<b>SERIAL NUMBER</b> 10/836,942	<b>FILING OR 371(c) DATE</b> 04/30/2004 <b>RULE</b>	<b>CLASS</b> 264	<b>GROUP ART UNIT</b> 1791	<b>ATTORNEY DOCKET NO.</b> 103012/0520714
<b>APPLICANTS</b> Donald James Njus, New Hampton, IA; Jon Nicolaisen, New Hampton, IA;  <b>** CONTINUING DATA *****</b> This appln claims benefit of 60/484,955 07/03/2003 and claims benefit of 60/484,954 07/03/2003  <b>** FOREIGN APPLICATIONS *****</b>				
<b>IF REQUIRED, FOREIGN FILING LICENSE GRANTED</b> <b>** 07/07/2004</b>				
Foreign Priority claimed <input type="checkbox"/> yes <input type="checkbox"/> no 35 USC 119 (a-d) conditions <input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> Met after met Allowance Verified and Acknowledged Examiner's Signature _____ Initials _____		<b>STATE OR COUNTRY</b> IA	<b>SHEETS DRAWING</b> 2	<b>TOTAL CLAIMS</b> 24  <b>INDEPENDENT CLAIMS</b> 3
<b>ADDRESS</b> 26874				
<b>TITLE</b> METHOD OF MAKING A VEGETABLE OIL-BASED CANDLE				
<b>FILING FEE RECEIVED</b> 551	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:		<input type="checkbox"/> All Fees <input type="checkbox"/> 1.16 Fees ( Filing ) <input type="checkbox"/> 1.17 Fees ( Processing Ext. of time ) <input type="checkbox"/> 1.18 Fees ( Issue ) <input type="checkbox"/> Other _____ <input type="checkbox"/> Credit	



## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE

8-3-11

Paper No.: \_\_\_\_\_

TO SPE OF

ART UNIT

1626

SUBJECT

Request for Certificate of Correction for Appl. No.: 10/837162

Patent No.:

7094 Tad

CofC mailroom date:

7-28-11

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Check claims

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**  
**Randolph Square - 9D10-A**  
**Palm Location 7580**

Eunice Young

Certificates of Correction Branch

703-756-1814

**Thank You For Your Assistance****The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**Specify below which changes **do not** apply.☐ **Denied**

State the reasons for denial below.

**Comments:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Joseph K. McKane

SPE

1626

Art Unit





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DAVID GARROD  
C/O LIGHTSPIN TECHNOLOGIES, INC.  
P.O. BOX 30198  
BETHESDA MD 20824-0198

**MAILED**

**NOV 09 2010**

**OFFICE OF PETITIONS**

In re Application of  
Harmon et al.  
Application Number: 10/837,175  
Filing or 371(c) Date: 05/01/2004  
Attorney Docket No. L24

:  
:  
: DECISION ON PETITION  
:  
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This is a decision on the renewed petition filed on August 23, 2010, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is GRANTED.

This application became abandoned on August 19, 2009, for failure to properly respond to the final Office action mailed on February 18, 2009, which set a three (3)-month shortened statutory period for reply. On August 20, 2009 (certificate of mailing date August 18, 2009), an amendment after final rejection and a three (3)-month extension of time were filed. On October 14, 2009, however, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply filed on August 18, 2009 fails to place the application in condition for allowance. Notice of Abandonment was mailed on December 31, 2009. The paper styled as a petition filed on April 2, 2010 was dismissed on June 22, 2010, for lack of the petition fee and for not being properly signed.

The subject renewed petition was filed on August 23, 2010, accompanied by the petition fee.

Petitioner has submitted a Request for Continued Examination (RCE) which states that the previously submitted reply is the submission required under 37 CFR 1.114.



The application file is being referred to Technology Center Director AU 2811 for appropriate action on the concurrently filed Request for Continued Examination.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

A handwritten signature in black ink, appearing to read "D Wood", is positioned above the printed name.

Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions





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**ALLERGAN, INC.**  
**2525 DUPONT DRIVE, T2-7H**  
**IRVINE CA 92612-1599**

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**JUN 01 2011**

**OFFICE OF PETITIONS**

In re Application of :  
Huang et al. :  
Application No. 10/837,356 : **DECISION ON PETITION**  
Filed: April 30, 2004 :  
Attorney Docket No. 17698 (OCU) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 4, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, July 14, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 15, 2010. A Notice of Abandonment was mailed March 4, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810.00 and the submission required by 37 CFR 1.114; (2) the petition fee of \$1,620.00; and (3) a proper statement of unintentional delay.

Additionally, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center AU 1617 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

/Joan Olszewski/  
Joan Olszewski  
Petitions Examiner  
Office of Petitions





Patent No. : 7773365  
Ser. No. : 10/837411  
Inventor(s) : Gregory Herman, et al.  
Issued : 08/10/2010  
Title : DIELECTRIC MATERIAL  
Docket No. : 200316713-1

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ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

**Tasneem Siddiqui**  
For Mary Diggs (Supervisor)  
Decisions & Certificates  
of Correction Branch  
(703) **756-1593** or (703) 756-1814  
Date: 9/24/2010

Address: Steven R. Ormiston  
HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
3404 E. Harmony Road, Mail Stop 35  
Fort Collins, CO 80528

ts/md





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**MINNEAPOLIS MN 55440-1022**

**MAILED**  
**NOV 25 2011**  
**OFFICE OF PETITIONS**

In re Patent No. 7,013,089 :  
Issued: March 14, 2006 :  
Application No. 10/837,488 : **NOTICE**  
Filed: April 30, 2004 :  
Attorney Docket No. 23271-008002/STR348 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 14, 2010.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Additionally, petitioner has submitted \$130.00 towards the required \$65.00 surcharge deficiency fee. The overage in the amount of \$65.00 will be refunded to petitioner via treasury check in due course.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/  
Joan Olszewski  
Petitions Examiner  
Office of Petitions

cc: Bing Ai  
Fish & Richardson P.C.  
4350 La Jolla Village Drive, Suite 500  
San Diego, CA 92122





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/837,530	04/30/2004	Lyle J. Arnold JR.	042602-0201	1989
30542 7590 11/08/2010 FOLEY & LARDNER LLP P.O. BOX 80278 SAN DIEGO, CA 92138-0278			EXAMINER CALAMITA, HEATHER	
			ART UNIT 1637	PAPER NUMBER
			MAIL DATE 11/08/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.





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NOV 08 2010

FOLEY & LARDNER LLP  
P.O. BOX 80278  
SAN DIEGO CA 92138-0278

*In re* Application of:  
Arnold et al.  
Serial No.: 10/837,530  
Filed: April 30, 2004  
Attorney Docket No.: **042602-0201**

:  
:  
: PETITION DECISION  
:  
:

This is in response to the petition filed by applicants under 37 CFR § 1.181(a) on July 26, 2010, requesting that the ground of rejection set forth in the Examiner's Answer be designed as a New Grounds of Rejection, pursuant to MPEP § 1207.03 (IV). The delay in deciding this petition is regretted by it has only just been brought to the attention of the Deciding Official.

## BACKGROUND

Relevant parts of the prosecution history are summarized below.

On September 2, 2009, the examiner mailed a final Office action setting a three month statutory limit for reply. In this action, claims 1-8, 12-21 and 24-41 were rejected and 9-11, 22 and 23 were withdrawn from consideration. Claims 1-8 and 12-17, 19, 20 and 24-41 rejected under 35 U.S.C. 102(e) as being anticipated by Nazarenko et al. Claims 18 and 21 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Nazarenko et al. in view of the Jayasena et al.

On January 4, 2010, a Notice of Appeal was filed.

On March 4, 2010, applicants filed an Appeal Brief, appealing to the Board of Appeals from the examiner regarding the examiner's rejection of the claims.

On May 25, 2010, an Examiner's Answer was mailed by the examiner. In this Examiner's Answer, the examiner again rejected claims 1-8 and 12-17, 19, 20 and 24-41 under 35 U.S.C. 102(e) as being anticipated by Nazarenko et al. Claims 18 and 21 were again rejected under 35



U.S.C. 103 (a) as being unpatentable over Nazarenko et al. in view of the Jayasena et al.. The examiner also includes NCBI Blast, GenBank Accession XM 002369952 (May 12, 2008) and NCBI Blast, GenBank Accession NM 002502 (November 2, 2006) in the “**Evidence Relied Upon**” section of the Examiner’s Answer at page 3.

In response thereto, appellants filed this petition under 37 CFR § 1.181(a) on July 26, 2010, requesting that the ground of rejection set forth in the Examiner’s Answer be designed as a New Grounds of Rejection, pursuant to MPEP § 1207.03 (IV).

## DISCUSSION

The petition and the file history have been carefully considered.

In the petition filed on July 26, 2010, appellants argue that the Examiner’s Answer mailed on May 25, 2010 contained a new ground of rejection. Appellants point out that the “Despite having numerous opportunities to provide such evidence, it was not until the Examiner’s Answer that the Examiner first introduced the two NCBI Blast, GenBank Accessions document shown on page 3 of the Examiner’s Answer and used these documents in a belated effort to establish that the cited prior art allegedly did contemplate a target with a sequence that is associated with an infectious organism or that includes a genetic variation. Applicant respectfully submits that the introduction of this new evidence substantially changed the nature and the “basic thrust” of the Examiner’s grounds of rejection, because the rejection now includes at least *some* evidence relating to a clear limitation of the instant claims, whereas the previous grounds of rejections included absolutely no such evidence. It is noted that Appellants first raise this issue in the Appeal Brief filed March 4, 2010. In the Brief, Appellants assert for the first time, the prior art reference does not contemplate a target with a sequence that is associated with an infectious organism or that includes a genetic variation.

It is noted that pursuant to M.P.E.P. §1207.03(III):

*A new prior art reference applied or cited for the first time in an examiner’s answer generally will constitute a new ground of rejection. If the citation of a new prior art reference is necessary to support a rejection, it must be included in the statement of rejection, which would be considered to introduce a new ground of rejection. Even if the prior art reference is cited to support the rejection in a minor capacity, it should be positively included in the statement of rejection. In re Hoch, 428 F.2d 1341, 1342 n.3, 166 USPQ 406, 407 n. 3 (CCPA 1970).*

It is clear from the Examiner’s Answer that the Blast sequences were not provided previously because they were not relevant to the rejection but rather used to rebut Appellants’ arguments. However, to the extent it could be taken as a new grounds of rejection the petition is GRANTED. A new ground of rejection is permissible in an Examiner’s Answer; however, an Examiner’s Answer containing a new ground of rejection must adhere to the provisions set forth in the



MPEP concerning the placement of such new grounds of rejection in an Examiner's Answer (MPEP § 1207.03 I-III). Specifically, the new ground of rejection set forth by the examiner in the Examiner's Answer as identified herein may be permissible according to MPEP § 1207.03; however, the Examiner's Answer must 1) be approved by a Technology Center Director or designee, 2) specifically identify the new ground of rejection as a 'new ground of rejection,' and 3) provide applicants a two-month time period to reply to the new rejection set forth in the Examiner's answer (see MPEP § 1207.03 I for guidance).

Because it could be construed that the examiner set forth a new ground of rejection in the Examiner's Answer and because the examiner did not adhere to the requirements for setting forth a new ground of rejection in the Examiner's Answer as set forth above, the Examiner's Answer of May 25, 2010 was improper and is hereby VACATED.

## **DECISION**

The petition is **GRANTED**.

This application will be forwarded to the examiner to either issue a corrected Examiner's Answer adhering to the provisions set forth in MPEP § 1207.03 I for introducing a new ground of rejection in an Examiner's Answer; by issuing a corrected Examiner's Answer omitting the new ground of rejection identified herein; or alternatively, to reopen prosecution to set forth said new ground of rejection.

Should there be any questions about this decision please contact Marianne C. Seidel, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.



Jacqueline M. Stone  
Director, Technology Center 1600





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**ALEXANDRIA VA 22314**

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**FEB 01 2011**

**OFFICE OF PETITIONS**

**ON PETITION**

In re Patent No. 7,137,480 :  
Issued: November 21, 2006 :  
Application No. 10/837,681 :  
Filed: May 4, 2004 :  
Attorney Docket No. P08220US00.RFH :

This is a decision on the petition under 37 CFR 1.378(c), filed December 3, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (3) listed above.

With regards to item (3), petitioner has submitted \$65.00 towards the required \$1,640.00 surcharge fee, thus creating a shortage of \$1,575.00. Further, petitioner has submitted an improper deposit account number on the petition. Therefore, as stated above a \$400.00 petition fee is required for any petition for reconsideration, bringing the total to \$1,975.00.



If this petition is not renewed or if renewed and not granted, then petitioner may request a refund of the maintenance and surcharge fees paid. The fee for requesting reconsideration is not refundable.

Additionally, the file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

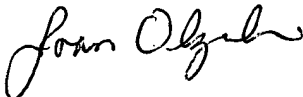
Further correspondence with respect to this matter should be addressed as follows:

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                  Customer Service Window, Mail Stop Petitions  
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                  401 Dulany Street  
                  Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571)-272-7751.



Joan Olszewski  
Petitions Examiner  
Office of Petitions

cc:        Richard Andrew Williams  
            PO Box 403  
            Itta Bena, MS 38941





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**MAR 11 2011**  
**OFFICE OF PETITIONS**

In re Patent No. 7,137,480	:	
Issued: November 21, 2006	:	
Application No. 10/837,681	:	ON PETITION
Filed: May 4, 2004	:	
Attorney Docket No. P08220US00.RFH	:	

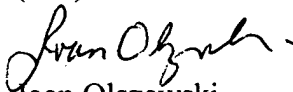
This is a decision on the renewed petition under 37 CFR 1.378(c), filed February 11, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 22, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

  
Joan Olszewski  
Petitions Examiner  
Office of Petitions





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**MAILED**

**JAN 28 2011**

**OFFICE OF PETITIONS**

CROWELL & MORING LLP  
INTELLECTUAL PROPERTY GROUP  
P.O. BOX 14300  
WASHINGTON DC 20044-4300

In re Application of	:	
Ziegler, et al.	:	
Application No. 10/837,755	:	DECISION ON APPLICATION
Filed: May 4, 2004	:	FOR
Atty Docket No. <b>029310.50932D1</b>	:	PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT IN NOTICE OF ALLOWANCE UNDER 37 CFR 1.705(b)," filed December 22, 2010. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from 1,083 days to 1,294 days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct patent term adjustment determination at the time of the mailing of the notice of allowance is **1,294 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On September 30, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 1,083 days. Applicants timely filed the instant application for patent term adjustment<sup>1</sup>.

Applicants dispute the reduction of 128 days for applicant delay in responding to the restriction/election requirement mailed January 23, 2007. Applicants explain that they originally submitted the reply on February 23, 2007, which appeared to have

<sup>1</sup> PALM Records indicate that the Issue Fee payment was received on December 22, 2010.



been lost in the USPTO. Applicants indicate that they resubmitted a copy of the previously filed reply on August 29, 2007, accompanied by an Office date-stamped postcard receipt whereby the Office acknowledged receiving the reply on February 23, 2007. Applicants assert that the resubmission of the reply to restriction/election requirement does not warrant a reduction of the patent term adjustment pursuant to 37 CFR 1.704(b).

A review of the applicants' evidence is unnecessary. The Office notes that the paper filed August 29, 2007, is a copy of the previously filed response and is accompanied by an Office date-stamped postcard whereby the Office acknowledged receiving the reply on February 23, 2007. Under these circumstances, the date of receipt of the response on February 23, 2007, should be used for purposes of calculating compliance with 37 CFR 1.704(b). The response was filed within three months from the January 23, 2007, mail date of the restriction/election requirement. Thus, applicants did not fail to engage in reasonable efforts to conclude processing by delaying in responding to the restriction/election requirement. Accordingly, the period of reduction of 128 days is not warranted and is being removed.

It is noted that entry of an additional period of adjustment to the patent term is warranted. Pursuant to 37 CFR 1.702(a)(2) and 37 CFR 1.703(a)(2), a period of adjustment of 83 days is being entered for the Office failing to respond to the reply under 35 U.S.C. 132 within four months after the date on which the reply was filed, with said period beginning June 24, 2007, and ending September 14, 2007 with the mailing of a non-final Office action. A period of adjustment of 83 days is being entered accordingly.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is 1,294 days (1,387 days of Office delay - 93 days of applicant delay).

The Office acknowledges receipt of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.



The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

A handwritten signature in cursive script, reading "Kenya A. McLaughlin".

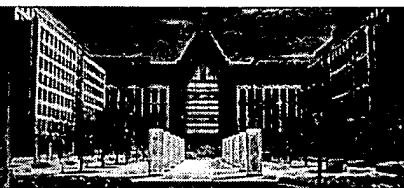
Kenya A. McLaughlin  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen





# Patent Term Adjustments



PTA/PTE Information    Patent Term Adjustment    Patent Term Extension

Application Number\*: 10837755

Search

Explanation of PTA Calculation

Explanation of PTE Calculation

## PTA Calculations for Application: 10837755

Application Filing Date	05/04/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1304
A Delays	568	PTO Manual Adjustment	211
B Delays	0	Applicant Delay (APPL)	221
C Delays	736	Total PTA (days)	1294

\* - Sorted Column

## File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
83	01/25/2011		P028	Adjustment of PTA Calculation by PTO	211	0	
71	09/30/2010		MN/=	Mail Notice of Allowance		0	
70	09/28/2010		DVER	Document Verification		0	
69	09/28/2010		IREV	Issue Revision Completed		0	
68	09/28/2010		N/=	Notice of Allowance Data Verification Completed		0	
67	09/27/2010		CNTA	Notice of Allowability		0	
66	09/13/2010	09/08/2008	MAPDR	Mail BPAI Decision on Appeal - Reversed	736	42	
65	09/13/2010		APDR	BPAI Decision - Examiner Reversed		0	
64	08/11/2009		AP_DK_M	Docketing Notice Mailed to Appellant		0	
63	08/11/2009		APAS	Assignment of Appeal Number		0	
62	08/03/2009		APWD	Appeal Awaiting BPAI Docketing		0	
61	08/03/2009		MRBNE	Mail Reply Brief Noted by Examiner		0	
60	07/31/2009		RBNE	Reply Brief Noted by Examiner		0	
59	07/22/2009		FWDX	Date Forwarded to Examiner		0	
58	06/29/2009		APRB	Reply Brief Filed		0	
57	06/01/2009		TCWD	Appeal ready for BPAI docketing		0	
56	05/20/2009		MM327	Mail Miscellaneous Communication to Applicant		0	
55	05/19/2009		M327	Miscellaneous Communication to Applicant - No Action Count		0	
54	05/11/2009		TCRD	Return of Undocketed appeal to the TC		0	
53	05/11/2009		PACC	Exam. Ans. Review Complete		0	
52	04/27/2009	09/08/2008	MAPEA	Mail Examiner's Answer		42	
51	04/27/2009		APEA	Examiner's Answer to Appeal Brief		0	
50	02/17/2009		APBR	Appeal Brief Review Complete		0	
49	02/17/2009		FWDX	Date Forwarded to Examiner		0	
48	01/14/2009		AP.B	Appeal Brief Filed		0	
47	01/14/2009		XT/G	Request for Extension of Time - Granted		0	
45	11/14/2008		MAPCP	Mail Appeals conf. Proceed to BPAI		0	
44	11/10/2008		APCP	Pre-Appeals Conference Decision - Proceed to BPAI		0	
43	09/08/2008		AP.C	Request for Pre-Appeal Conference Filed		0	
42	09/08/2008	09/06/2008	N/AP	Notice of Appeal Filed		2	41
41	06/06/2008		MCTFR	Mail Final Rejection (PTOL - 326)		0	
40	06/06/2008		CTFR	Final Rejection		0	
38	04/12/2008		FWDX	Date Forwarded to Examiner		0	
39	03/14/2008		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		0	
37	03/14/2008	12/14/2007	A...	Response after Non-Final Action		91	35
36	03/14/2008		XT/G	Request for Extension of Time - Granted		0	
35	09/14/2007		MCTNF	Mail Non-Final Rejection		0	
34	09/12/2007		CTNF	Non-Final Rejection		0	
28	09/02/2007		FWDX	Date Forwarded to Examiner		0	
29	08/29/2007		LET.	Miscellaneous Incoming Letter		0	
27	08/29/2007	04/23/2007	ELC.	Response to Election / Restriction Filed		128	25
26	07/17/2007		DOCK	Case Docketed to Examiner in GAU		0	
25	01/23/2007	07/04/2005	MCTRS	Mail Restriction Requirement	568	-1	
24	01/19/2007		CTRS	Requirement for Restriction / Election		0	
22	01/03/2007		DOCK	Case Docketed to Examiner in GAU		0	
21	05/02/2006		DOCK	Case Docketed to Examiner in GAU		0	
20	10/15/2004		DOCK	Case Docketed to Examiner in GAU		0	
19	10/15/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete		0	
15	09/28/2004		COMP	Application Is Now Complete		0	
16	09/27/2004		WROIPE	Application Return from OIPE		0	
14	09/27/2004		ROIPE	Application Return TO OIPE		0	
13	09/27/2004		WROIPE	Application Return from OIPE		0	
12	09/27/2004		ROIPE	Application Return TO OIPE		0	
11	09/27/2004		OIPE	Application Dispatched from OIPE		0	
10	09/27/2004		COMP	Application Is Now Complete		0	



9	09/08/2004	FLFEE	Payment of additional filing fee/Preexam	0
8	09/08/2004	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
7	07/08/2004	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
5	06/08/2004	L128	Cleared by L&R (LARS)	0
4	06/01/2004	L198	Referred to Level 2 (LARS) by OIPE CSR	0
3	06/01/2004	CLSS	CASE CLASSIFIED BY OIPE	0
2	05/12/2004	SCAN	IFW Scan & PACR Auto Security Review	0
23	05/04/2004	IDSC	Information Disclosure Statement considered	0
18	05/04/2004	RCAP	Reference capture on IDS	0
17.7	05/04/2004	M844	Information Disclosure Statement (IDS) Filed	0
17	05/04/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
1	05/04/2004	IEXX	Initial Exam Team nn	0

Export to: [Excel](#)





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LANDO & ANASTASI, LLP  
ONE MAIN STREET, SUITE 1100  
CAMBRIDGE MA 02142

**MAILED**

**AUG 18 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,672,974	:	DECISION
DOCTOROW et al.	:	DISMISSING REQUEST FOR
Issue Date: March 2, 2010	:	RECONSIDERATION OF PATENT
Application No. 10/838,150	:	TERM ADJUSTMENT
Filed: May 4, 2004	:	UNDER 37 CFR 1.705
Attorney Docket No. N2020-700220	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed on May 3, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred twenty-two (522) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. 154(b) of three hundred ten (310) days.

Patentee is given **TWO (2) MONTHS** from the mailing date of this decision to respond. No extensions of time will be granted under 37 CFR 1.136.

Patentee acknowledges 476 days of A delay, 443 days of applicant delay, and 0 days of overlap. However, patentee's calculation of the number of days of B delay is incorrect.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the B delay period, the over three year period begins on May 5, 2007, and ends on September 3, 2008, the day



before the RCE was filed, and is 488 (not 489) days. See 35 U.S.C. 154(b)(1)(B)(i). Further, the Office notes that patentee failed to account for the filing of the notice of appeal on February 6, 2008. The Office reminds patentee that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii).

In this instance, the period consumed by appellate review is 211 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, February 6, 2008, and ending on the day before the filing of the RCE, September 3, 2008. Thus, B delay is 277 days (488 - 211).

Accordingly, the patent term adjustment is 310 days (476 days of A delay + 277 days of B delay - 443 days of applicant delay).

In view thereof, no change will be made in the revised determination of patent term adjustment at the time of the issuance of the patent.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

*Christina Tartera Donnell*

Christina Tartera Donnell  
Senior Petitions Attorney  
Office of Petitions





## UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
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Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

In re Patent No.	7011042	:
Issue Date:	March 14, 2006	:
Application No.	10838271	:DECISION GRANTING PETITION
Filed:	May 5, 2004	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	04-001	:

This is a decision on the electronic petition, filed December 20, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 20, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7011042	2006-03-14	10838271	2004-05-05	SIE-143

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                                 | Fee | Code   |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year  |     | (1551) |
| <input type="radio"/> 7 ½ year  |     | (1552) |
| <input type="radio"/> 11 ½ year |     | (1553) |

### Small Entity

- |   | Fee | Code   |
|---|-----|--------|
| <input checked="" type="radio"/> 3 ½ year |     | (2551) |
| <input type="radio"/> 7 ½ year            |     | (2552) |
| <input type="radio"/> 11 ½ year           |     | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark Levy/	Date (YYYY-MM-DD)	2010-12-20
Name	Mark Levy	Registration Number	29188
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Paper No.:**20101129

**DATE** :

**TO SPE OF** : ART UNIT

**SUBJECT** : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

**Certificates of Correction Branch - ST (South Tower) 9A22**

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance**

**Certificates of Correction Branch**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:**

Request for certificate of correction has been approved.

/Quan-Zhen Wang/  
Supervisory Patent Examiner, Art Unit 2629





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Suite 408  
Austin TX 78705

**MAILED**

**OCT 08 2010**

**OFFICE OF PETITIONS**

In re Application of	:	
Mitchell et al.	:	DECISION ON REQUEST
Application No. 10/838575	:	FOR RECONSIDERATION
Filing or 371(c) Date: 05/04/2004	:	OF PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
ZIMM1420	:	

This is a decision on the "Request for Reconsideration of Patent Term Under 37 C.F.R. § 1.705(b)," filed June 9, 2010. Applicant requests reconsideration of the patent term adjustment to seven hundred sixteen (716) days. Applicant requests this recalculation (1) based upon an assertion that the Office failed to calculate Applicants' delay of 125 days pursuant to 37 CFR 1.704(c)(3), and (2) on the basis that the Office will take in excess of three years to issue this patent.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), is **GRANTED TO THE EXTENT INDICATED HEREIN.**

### BACKGROUND

The application was filed on May 4, 2004. On May 5, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is three hundred twelve (312) days.

On June 9, 2010, Applicants timely submitted the present request for reconsideration of patent term adjustment<sup>1</sup>. Applicants do not dispute the reductions to date of 94 days and 96 days pursuant to 37 CFR 1.704(b), or adjustments of 191 days and 311 days pursuant to 37 CFR 1.702(a)(1) and (a)(2) respectively. Applicants, however, provide that the Office failed to calculate a reduction of 125 days pursuant to 37 CFR 1.704(c)(3), in connection with the abandonment and revival of the present application, and a delay of 529 days pursuant to 37 CFR

<sup>1</sup> Office records show that the Issue Fee payment was received in the Office on June 9, 2010.



1.702(b), in connection with the failure of the Office to issue a patent within three (3) years after the filing date of the present application.

Regarding the reduction of 125 days, Applicants provide that a petition to revive the application was filed on July 14, 2006<sup>2</sup>.

### OPINION

Office records reveal that the petition to revive the application, filed July 14, 2006, was granted in a Decision on petition mailed July 3, 2007. Pursuant to 37 CFR 1.704(c)(3), the period of delay begins on the date of abandonment – the day after the date on which the reply to the Office action was due, i.e. February 12, 2006 – and ending on the earlier of (i) the date of mailing of the decision reviving the application (i.e. July 3, 2007) or (ii) the date that is four months after the date the grantable petition to revive the application was filed (i.e. November 14, 2006). The period of reduction pursuant to 37 CFR 1.704(c) beginning on the date of abandonment of the application, February 12, 2006, and ending on the date that is four months after the date the grantable petition to revive the application was filed, November 14, 2006, is 276 days.

Further to this, the period of delay of 94 days pursuant to 37 CFR 1.704(b) in connection with the filing of a reply to the Office action mailed January 11, 2006, beginning on the day after the date that is three months after the date of mailing of the Office action, April 12, 2006, and ending on the date the reply was filed, July 14, 2006, overlaps with the period of delay of 276 days in connection with the abandonment and revival of the present application.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is one hundred thirty (130) days (adjustments totaling 502 days less reductions totaling 372 days (96 days + 276 days), subject to any terminal disclaimer.

With regard to the argument under 37 CFR 1.702(b), knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is

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<sup>2</sup> The petition incorrectly notes this date as July 12, 2006.



advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee<sup>3</sup>.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.



Anthony Knight  
Director  
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

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<sup>3</sup> For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.





# Patent Term Adjustments



PTA/PTE Information    Patent Term Adjustment    Patent Term Extension

Application Number\*: 10838575    Search    Explanation of PTA Calculation    Explanation of PTE Calculation

PTA Calculations for Application: 10838575

Application Filing Date 05/04/2004	Overlapping Days Between (A and B) or (A and C) 0
Issue Date of Patent	Non-Overlapping USPTO Delays: 502
A Delays 502	PTO Manual Adjustment 60
B Delays 0	Applicant Delay (APPL) 190
C Delays 0	Total PTA (days) 372

\* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
101	09/28/2010		P028	Adjustment of PTA Calculation by PTO	60		0
94	05/05/2010		MN/-	Mail Notice of Allowance			0
93	05/04/2010		IREV	Issue Revision Completed			0
92	05/04/2010		OVER	Document Verification			0
90	05/04/2010		N/-	Notice of Allowance Data Verification Completed			0
89	05/04/2010		CNTA	Notice of Allowability			0
86	04/28/2010		FWDX	Date Forwarded to Examiner			0
85	04/27/2010		A.NE	Amendment after Final Rejection			0
91	04/26/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
84	03/16/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
83	03/15/2010		C.ADB	Correspondence Address Change			0
82	03/15/2010		CTFR	Final Rejection			0
81	01/06/2010		FWDX	Date Forwarded to Examiner			0
80	11/19/2009		A..	Response after Non-Final Action			0
79	08/19/2009		MCTNF	Mail Non-Final Rejection			0
78	08/17/2009		CTNF	Non-Final Rejection			0
77	07/22/2009		FWDX	Date Forwarded to Examiner			0
75	07/22/2009		FWDX	Date Forwarded to Examiner			0
73	07/22/2009		ABN9	Disposal for a RCE / CPA / R129			0
76	07/17/2009		AMS8	Amendment Submitted/Entered with Filing of CPA/RCE			0
74	07/17/2009		RCEX	Request for Continued Examination (RCE)			0
72	07/17/2009		BRCE	Workflow - Request for RCE - Begin			0
71	04/29/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
70	04/27/2009		CTFR	Final Rejection			0
69	03/18/2009		LET.	Miscellaneous Incoming Letter			0
68	03/13/2009		PA..	Change in Power of Attorney (May include Associate POA)			0
67	03/11/2009		CAD	Correspondence Address Change			0
66	03/08/2009		FWDX	Date Forwarded to Examiner			0
64	02/18/2009		EML_NTR	Email Notification			0
63	02/10/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
65	02/17/2009		A..	Response after Non-Final Action			0
62	02/12/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
61	11/24/2008		ELC_RVW	Electronic Review			0
60	11/21/2008		EML_NTF	Email Notification			0
59	11/21/2008		MCTNF	Mail Non-Final Rejection			0
58	11/19/2008		CTNF	Non-Final Rejection			0
57	10/23/2008		FWDX	Date Forwarded to Examiner			0
55	10/23/2008		FWDX	Date Forwarded to Examiner			0
53	10/23/2008		ABN9	Disposal for a RCE / CPA / R129			0
56	10/14/2008		AMS8	Amendment Submitted/Entered with Filing of CPA/RCE			0
54	10/14/2008		RCEX	Request for Continued Examination (RCE)			0
52	10/14/2008		BRCE	Workflow - Request for RCE - Begin			0
51	07/16/2008		ELC_RVW	Electronic Review			0
50	07/14/2008		EML_NTF	Email Notification			0
49	07/14/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
47	05/20/2008		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
48	04/25/2008		CTFR	Final Rejection			0
46	04/17/2008		FWDX	Date Forwarded to Examiner			0
39	03/18/2008		A..	Response after Non-Final Action			0
38	02/12/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
36	01/03/2008		ELC_RVW	Electronic Review			0
35	12/29/2007		EML_NTF	Email Notification			0
34	12/28/2007		MCTNF	Mail Non-Final Rejection			0
33	12/20/2007		CTNF	Non-Final Rejection			0
32	10/23/2007		FWDX	Date Forwarded to Examiner			0
30	10/12/2007		DOCK	Case Docketed to Examiner in GAU			0
31	10/11/2007		ELC	Response to Election / Restriction Filed			0
29	09/25/2007		ELC_RVW	Electronic Review			0
28	09/22/2007		EML_NTF	Email Notification			0
27	09/21/2007	11/14/2006	MCTRS	Mail Restriction Requirement	311		23
26	09/17/2007		CTRS	Requirement for Restriction / Election			0
25	08/08/2007		DOCK	Case Docketed to Examiner in GAU			0
24	07/09/2007		FWDX	Date Forwarded to Examiner			0
22	07/03/2007		HPREV	Mail-Petition to Revive Application - Granted			0
23	07/14/2006	04/11/2006	ELC	Response to Election / Restriction Filed		24	18
21	07/14/2006		PET.	Petition Entered			0
20	07/14/2006		XT/G	Request for Extension of Time - Granted			0
19	03/16/2006		DOCK	Case Docketed to Examiner in GAU			0
10	01/11/2006	07/04/2005	MCTRS	Mail Restriction Requirement	121		-1
17	01/09/2006		CTRS	Requirement for Restriction / Election			0
16	12/28/2005		DOCK	Case Docketed to Examiner in GAU			0
15	10/20/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
14	10/20/2005		DOCK	Case Docketed to Examiner in GAU			0
13	04/08/2005		TI1050	Transfer Inquiry to GAU			0
12	02/24/2005		WRDIPE	Application Return from OIPE			0
11	02/24/2005		ROIPE	Application Return TO OIPE			0
10	02/24/2005		OIPE	Application Dispatched from OIPE			0
9	02/24/2005		COMP	Application Is Now Complete			0
8	02/14/2005	11/10/2004	ADDFLEE	Additional Application Filing Fees	26		6
7	02/14/2005		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant			0
6	08/10/2004		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
4	06/04/2004		L194	Cleared by OIPE CSR			0
3	06/04/2004		CLASS	CASE CLASSIFIED BY OIPE			0
2	05/13/2004		SCAN	IFW Scan & PACR Auto Security Review			0
1	05/04/2004		IEEX	Initial Exam Team nn			0

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Law Department  
1900 East Linden Avenue  
P.O. Box 710  
Linden NJ 07036-0710

**MAILED**  
**MAR 12 2012**  
**OFFICE OF PETITIONS**

In re Application of :  
Ishikawa, et al. :  
Application No. 10/838,602 : **ON PETITION**  
Filed: May 4, 2004 :  
Attorney Docket No. **2004L001**

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2012 to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned April 1, 2011, for failure to seek further judicial review after a Decision on Appeal was mailed on January 31, 2011.

The Request for Continued Examination and amendment filed February 8, 2012, are noted.

The application file is being forwarded to Technology Center, GAU 1771 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions





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DEC 13 2010

**OFFICE OF PETITIONS**

FOLEY & LARDNER LLP  
150 EAST GILMAN STREET  
P.O. BOX 1497  
MADISON WI 53701-1497

In re Patent No. 7,853,793	:
Cofta et al.	:
Issue Date: December 14, 2010	: DECISION ON REQUEST FOR
Application No. 10/838,642	: RECONSIDERATION OF
Filed: May 3, 2004	: PATENT TERM ADJUSTMENT
Attorney Docket No. 088245-1134	:
Title: TRUSTED SIGNATURE WITH	:
KEY ACCESS PERMISSIONS	:

This is a decision on the petition filed on November 8, 2010, "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 CFR §1.705(b)" requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred two (1,102) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED**.

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required. The fee set forth in 37 CFR 1.18(e) is required and will not be refunded.

A review of the record shows that the patent issued with a patent adjustment of one thousand one hundred two (1,102) days. As such, a certificate of correction is not required.



Patent No. 7,853,793

Application No. 10/838,642

Page 2

Telephone inquiries specific to this matter should be directed to Petitions Attorney, Charlema Grant at (571) 272-3215.

A handwritten signature in black ink, appearing to read 'Anthony Knight', with a stylized flourish at the end.

Anthony Knight  
Director  
Office of Petitions





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UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/838,658	05/03/2004	James R. Petisce	DEXCOM.045A	3942

68851	7590	03/31/2011
KNOBBE, MARTENS, OLSEN & BEAR, LLP		
2040 MAIN STREET		
FOURTEENTH FLOOR		
IRVINE, CA 92614		

EXAMINER	
PIERY, MICHAEL T	

ART UNIT	PAPER NUMBER
1742	

NOTIFICATION DATE	DELIVERY MODE
03/31/2011	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JCARTEE@KMOB.COM  
efiling@kmob.com





UNITED STATES PATENT AND TRADEMARK OFFICE

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3/31/2011

wk

Mailed:

In re application of  
Petisce et al.  
Serial No. 10/838,658  
Filed: May 3, 2004  
For: **IMPLANTABLE ANALYTE SENSOR**

:  
:  
: DECISION ON  
: PETITION  
:

This is a decision on the PETITION FILED UNDER 37 CFR 1.181 on March 18, 2011 to withdraw the Finality of the Office Action mailed October 18, 2010. The Examiner also issued an Advisory on February 2, 2011 maintaining that the final rejection was proper.

The Examiner issued a non-final Office Action on March 30, 2010. Applicant filed an Amendment on July 22, 2010 whereby claim 12 was amended from “ .....comprises a ratio of polymer blend to solvent of about 1 to 10 wt % polymer to about 90 to 99 wt % solvent....” to “ .....comprises a ratio of polymer blend to solvent of about 1 to 10 wt % polymer **blend** to about 90 to 99 wt % solvent....”. The Examiner issued a Final Office Action dated October 18, 2010, which rejected claim 12 on a new ground. The Examiner asserted that Applicant’s Amendment necessitated the new grounds.

The Examiner in the Advisory states that the amendment changed the scope of the claim. The addition of the word “blend” changes the claim to require 1-10% of the solution to include a blend of the silicone-containing polyurethane polymer and a hydrophobic polymer. Prior to the amendment, the claim required the solution to include 1-10% polymer (i.e., the claim required including silicone-containing polyurethane polymer or hydrophobic polymer or a blend of the two.) This change in the scope of the claim necessitated the change of the primary reference to a secondary reference and the addition of the Essenpreis reference.

Under present practice, second or any subsequent actions on the merits shall be final, except where the Examiner introduces a new ground of rejection that is neither necessitated by applicant’s amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

A review of the final office action shows that The Essenpreis reference is not relied upon by the Examiner for a teaching of polymer blends which is the subject of the amendment to claim 12. The new ground of rejection was not necessitated by the amendment to claim 12 in the Amendment dated July 22, 2010.

**DECISION**

The petition is **GRANTED**.



10/838,658

2

The finality of the October 28, 2010 action is withdrawn. The period for response will continue run from the mail date of October 28, 2010.

/W. GARY JONES/

W. Gary Jones

Director, Technology Center 1700

Chemical and Materials Engineering

Rose M. Thiessen

KNOBBE, MARTENS, OLSEN & BEAR, LLP

2040 MAIN STREET

FOURTEENTH FLOOR

IRVINE CA 92614





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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.  
ONE FINANCIAL CENTER  
BOSTON MA 02111

**MAILED**

**SEP 08 2011**

**OFFICE OF PETITIONS**

In re Application of  
Mark L. Nelson et al.  
Application No. 10/839,023  
Filed: May 4, 2004  
Attorney Docket No. 16534-519D01US

:  
: DECISION ON APPLICATION  
: FOR PATENT TERM ADJUSTMENT  
:

This is a decision on the "APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. § 1.705(b)", filed September 1, 2011. Applicants request that the patent term adjustment at the time of the mailing of the Notice of Allowance be corrected from 244 days to 320 days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is THREE HUNDRED TWENTY (320) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 1, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 244 days. The instant application for patent term adjustment was timely filed<sup>1</sup>. Applicants dispute the reduction of 76 days of PTA for applicant delay in filing an Information Disclosure Statement (IDS) on March 24, 2011 after the filing of a response to Final Office Action on January 7, 2011.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the record reveals that on January 7, 2011 applicants filed a response to the Final Office action mailed October 8, 2010. Then on March 24, 2011, applicants filed the Information Disclosure Statement (IDS). Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution. The record does not support a conclusion that the IDS was expressly requested by the examiner. Accordingly, filing of the IDS may be considered a failure to engage and a proper basis for reduction.

<sup>1</sup> PALM records indicate that the Issue Fee was also received on September 1, 2011.



However, the record supports a conclusion that the IDS was received March 24, 2011 with a 37 CFR 1.704(d) statement.

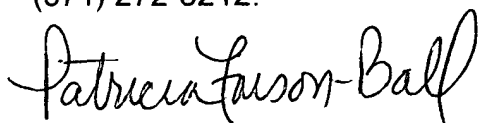
37 CFR 1.704(d) provides that a paper containing only an information disclosure statement in compliance with 37 CFR 1.97 and 1.98 will not be considered (result in a reduction) under 37 CFR 1.704(c)(6), 1.704(c)(8), 1.704(c)(9), or 1.704(c)(10) if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This provision will permit applicants to submit information first cited in a communication from a foreign patent office in a counterpart application to the Office without a reduction in patent term adjustment if an information disclosure statement is promptly (within thirty days of receipt of the first communication) submitted to the Office. Compliance with the statement requirement of 37 CFR 1.704(d) does not substitute for compliance with any relevant requirement of 37 CFR 1.97 or 1.98. 37 CFR 1.704(d) also provides that this thirty-day period is not extendableeely was expressly requested by the examiner, within the meaning of § 1.704(c)(8). Accordingly, no reduction is warranted.

In view thereof, no reduction should have been taken for the filing of the IDS after the mailing of the response to the Final Office Action on January 7, 2011.

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.



Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of Revised PALM Screen





# Patent Term Adjustments



PTA/PTE Information    Patent Term Adjustment    Patent Term Extension

Application Number\*: 10839023    Search    Explanation of PTA Calculation    Explanation of PTE Calculation

## PTA Calculations for Application: 10839023

Application Filing Date 05/04/2004	OverLapping Days Between (A and B) or (A and C) 0
Issue Date of Patent	Non-Overlapping USPTO Delays: 581
A Delays 581	PTO Manual Adjustment: 76
B Delays 0	Applicant Delay (APPL) 337
C Delays 0	Total PTA (days) 320

\* - Sorted Column

## File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
110	09/07/2011		P028	Adjustment of PTA Calculation by PTO	76	0	
94	06/01/2011	05/07/2011	MN/=.	Mail Notice of Allowance	25	73	
90	05/27/2011		IREV	Issue Revision Completed		0	
89	05/27/2011		DVER	Document Verification		0	
88	05/27/2011		N/=.	Notice of Allowance Data Verification Completed		0	
87	05/27/2011		DOCK	Case Docketed to Examiner in GAU		0	
93	05/06/2011		OAR	Office Action Review		0	
92	05/06/2011		OAR	Office Action Review		0	
91	05/06/2011		OAR	Office Action Review		0	
86	05/06/2011		EX.A	Examiner's Amendment Communication		0	
85	05/06/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
84	05/06/2011		CNTA	Allowability Notice		0	
80	03/24/2011		IDSC	Information Disclosure Statement considered		0	
79	03/24/2011	01/07/2011	M844	Information Disclosure Statement (IDS) Filed		76	73
78	03/24/2011		WIDS	Information Disclosure Statement (IDS) Filed		0	
77	02/11/2011		FWDX	Date Forwarded to Examiner		0	
76	02/11/2011		MAPCR	Mail Appeals conf. Reopen Prosec.		0	
75	02/10/2011		APCR	Pre-Appeals Conference Decision - Reopen Prosecution		0	
74	01/07/2011		AP.C	Request for Pre-Appeal Conference Filed		0	
73	01/07/2011		N/AP	Notice of Appeal Filed		0	
72	10/08/2010		MCTFR	Mail Final Rejection (PTOL - 326)		0	
71	10/01/2010		CTFR	Final Rejection		0	
70	08/18/2010		DOCK	Case Docketed to Examiner in GAU		0	
69	07/20/2010		FWDX	Date Forwarded to Examiner		0	
68	07/13/2010		A...	Response after Non-Final Action		0	
67	04/13/2010	03/19/2010	MCTNF	Mail Non-Final Rejection	25	59	
66	04/12/2010		CTNF	Non-Final Rejection		0	
60	01/03/2010		FWDX	Date Forwarded to Examiner		0	
65	11/19/2009		IDSC	Information Disclosure Statement considered		0	
59	11/19/2009	11/18/2009	A...	Response after Non-Final Action		1	54
58	11/19/2009		RCAP	Reference capture on IDS		0	
57	11/19/2009		M844	Information Disclosure Statement (IDS) Filed		0	
56	11/19/2009		XT/G	Request for Extension of Time - Granted		0	
55	11/19/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	
54	08/18/2009		MCTNF	Mail Non-Final Rejection		0	
53	08/17/2009		CTNF	Non-Final Rejection		0	
52	06/10/2009		FWDX	Date Forwarded to Examiner		0	
51	05/20/2009	03/05/2009	ELC.	Response to Election / Restriction Filed	76	48	
50	05/12/2009		NINA	Mail Notice of Informal or Non-Responsive Amendment		0	
49	03/10/2009		FWDX	Date Forwarded to Examiner		0	
48.1	03/05/2009		A.I.	Informal or Non-Responsive Amendment after Examiner Action		0	
48	03/05/2009	12/05/2008	ELC.	Response to Election / Restriction Filed		90	46
47	03/05/2009		XT/G	Request for Extension of Time - Granted		0	
46	09/05/2008		MCTRS	Mail Restriction Requirement		0	
45	09/02/2008		CTRS	Restriction/Election Requirement		0	
44	06/26/2008		C.AD	Correspondence Address Change		0	
43	06/26/2008		FWDX	Date Forwarded to Examiner		0	
41	06/26/2008		FWDX	Date Forwarded to Examiner		0	
39	06/26/2008		ABN9	Disposal for a RCE / CPA / R129		0	
42	06/12/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0	
40	06/12/2008	03/12/2008	RCEX	Request for Continued Examination (RCE)		92	31
38	06/12/2008		XT/G	Request for Extension of Time - Granted		0	



37	06/12/2008	BRCE	Workflow - Request for RCE - Begin		0
36	04/04/2008	MCTAV	Mail Advisory Action (PTOL - 303)		0
35	03/31/2008	CTAV	Advisory Action (PTOL-303)		0
34	02/26/2008	FWDX	Date Forwarded to Examiner		0
33	02/12/2008	A.NE	Amendment after Final Rejection		0
32	01/08/2008	DOCK	Case Docketed to Examiner in GAU		0
31	12/12/2007	MCTFR	Mail Final Rejection (PTOL - 326)		0
30	12/10/2007	CTFR	Final Rejection		0
29	09/05/2007	C.ADB	Correspondence Address Change		0
28	08/29/2007	FWDX	Date Forwarded to Examiner		0
27	08/20/2007	08/18/2007 A...	Response after Non-Final Action	2	24
26	05/23/2007	MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0
24	05/18/2007	03/13/2007 MCTNF	Mail Non-Final Rejection	66	18
25	03/08/2007	EXIN	Examiner Interview Summary Record (PTOL - 413)		0
23	01/08/2007	CTNF	Non-Final Rejection		0
19	11/28/2006	FWDX	Date Forwarded to Examiner		0
18	11/13/2006	ELC.	Response to Election / Restriction Filed		0
20	10/27/2006	IDSC	Information Disclosure Statement considered		0
17.7	10/27/2006	M844	Information Disclosure Statement (IDS) Filed		0
17	10/27/2006	WIDS	Information Disclosure Statement (IDS) Filed		0
16	10/12/2006	07/04/2005 MCTRS	Mail Restriction Requirement	465	0.5
15	10/02/2006	CTRS	Restriction/Election Requirement		0
21	01/23/2006	IDSC	Information Disclosure Statement considered		0
14	01/23/2006	RCAP	Reference capture on IDS		0
13.7	01/23/2006	M844	Information Disclosure Statement (IDS) Filed		0
13	01/23/2006	WIDS	Information Disclosure Statement (IDS) Filed		0
22	03/21/2005	IDSC	Information Disclosure Statement considered		0
12	03/21/2005	RCAP	Reference capture on IDS		0
11.7	03/21/2005	M844	Information Disclosure Statement (IDS) Filed		0
11	03/21/2005	WIDS	Information Disclosure Statement (IDS) Filed		0
10	09/03/2004	TSSCOMP	IFW TSS Processing by Tech Center Complete		0
9	09/03/2004	DOCK	Case Docketed to Examiner in GAU		0
5	07/12/2004	COMP	Application Is Now Complete		0
8	07/10/2004	WROIPE	Application Return from OIPE		0
7	07/10/2004	ROIPE	Application Return TO OIPE		0
6	07/10/2004	OIPE	Application Dispatched from OIPE		0
4	06/07/2004	L194	Cleared by OIPE CSR		0
3	06/07/2004	CLSS	CASE CLASSIFIED BY OIPE		0
2	05/21/2004	SCAN	IFW Scan & PACR Auto Security Review		0
1	05/04/2004	IEXX	Initial Exam Team nn		0
0.5	05/04/2004	EFILE	Filing date		0

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Paper No.

CONVERGENT LAW GROUP LLP  
P.O. BOX 1329  
MOUNTAIN VIEW CA 94042

**MAILED**

**MAY 24 2011**

**OFFICE OF PETITIONS**

**NOTICE**

In re Patent Number: 7,245,462 :  
Issue Date: 07/17/2007 :  
Application Number: 10/839,064 :  
Filing or 371(c) Date: 05/05/2004 :  
Attorney Docket Number: 2929P :

This is a notice regarding your request for acceptance of a fee deficiency submission, which is treated under 37 CFR 1.28, filed on April 13, 2011.

The Office no longer investigates or rejects original or reissue patents under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

Douglas Wood  
Attorney  
Office of Petitions





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**JUL 21 2011**

**OFFICE OF PETITIONS**

**Mr. S.K. Ho  
Biscom, Inc.  
Chairman & CEO  
321 Billerica Rd.  
Chelmsford MA 01824**

In re Patent No. RE38908 :  
Issue Date: December 6, 2005 : **ON PETITION**  
Application No.: 10/839,120 :  
Filed: May 5, 2004 :

This is a decision on the petition under 37 CFR 1.378(c), filed May 2, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent expired on December 11, 2010 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).


The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mailing date of this decision.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding the patent, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have first-hand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such inquiry has not been made, petitioner must make such inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.



Telephone inquiries relating to this decision should be directed to Robert DeWitty,  
Petitions Examiner, Office of Petitions (571-272-8427).

  
for Anthony Knight  
Director  
Office of Petitions

cc: David Prashker  
P.O. Box 5387  
Magnolia, MA 01930-5289





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Patent No. : 7919658  
Ser. No. : 10/839188  
Inventor(s) : ADKESSON, DENNIS MICHAEL  
Issued : 04/05/2011  
Title : PURIFICATION OF BIOLOGICALLY-PRODUCED 1,3-PROPANEDIOL  
Docket No. : CL2361USNA

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing incorrect or erroneous assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp. 1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1.17(i) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

*In the Request*, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450



By hand: Customer Service Window  
Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

By fax: (703) 872-9306  
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A Certificate of Correction will be issued for the remaining errors.

**Omega Lewis**  
For Mary Diggs  
Decisions & Certificates  
of Correction Branch  
(703)756-1575 or (703) 756-1814

POTTER ANDERSON & CORROON LLP  
1313 NORTH MARKET STREET  
WILMINGTON, DE 19801

**OL**





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**MAILED**  
**OCT 17 2011**  
**OFFICE OF PETITIONS**

In re Patent No. 7,919,658	:	
Issue Date: April 5, 2011	:	
Application No. 10/839,188	:	DECISION ON PETITION
Filed: May 5, 2004	:	
Attorney Docket No. CL2361USNA	:	

This is a decision on the "REQUEST TO CORRECT ASSIGNEE UNDER 37 C.F.R. 3.81(b)", filed September 7, 2011.

The petition is **DISMISSED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.<sup>1</sup> However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

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<sup>1</sup> See 37 CFR 3.81.



(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).<sup>2</sup>

Petitioner has not met requirement (C) above.

Here, the recordation of the requested assignee, Tate and Lyle Ingredients Americas LLC, was not made until after the issuance of the patent.

Further correspondence with respect to this matter should be addressed as follows:

By mail:           Mail Stop Petitions  
                  Commissioner for Patents  
                  P.O. Box 1450  
                  Alexandria VA 22313-1450

By FAX:           (571)273-8300  
                  Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo  
Petitions Attorney  
Office of Petitions

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<sup>2</sup> MPEP 307.





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**MAILED**

**DEC 12 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,919,658	:	
Issue Date: April 5, 2011	:	
Application No. 10/839,188	:	DECISION ON PETITION
Filed: May 5, 2004	:	
Attorney Docket No. CL2361USNA	:	

This is a decision on the "PETITION TO CORRECT ASSIGNEE UNDER 37 C.F.R. 3.81(b) and REQUEST FOR CERTIFICATE OF CORRECTION UNDER 1.323", filed November 15, 2011.

The petition is **GRANTED to the extent indicated herein.**

Patentees filed an earlier petition to correct the assignee and request for a Certificate of Correction on September 7, 2011. Specifically, patentees requested that the name of assignee Tate and Lyle Ingredients Americas LLC, which was omitted from the issue fee transmittal form, be listed as an assignee on a Certificate of Correction. However, the petition was dismissed in a decision mailed on October 17, 2011. The decision cited to 37 CFR 3.81(b), which states that such a request should include:

- (A) the processing fee required by 37 CFR 1.17(i);
- (B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;



(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).<sup>1</sup>

The decision explained that because the recordation of the requested assignee, "Tate and Lyle Ingredients Americas LLC", was not made until after the issuance of the patent, a Certificate of Correction was not appropriate in this instance.

With the instant request for reconsideration, Patentees explain that "A.E. Staley Manufacturing Company" changed its name to "Tate & Lyle Ingredients Americas, Inc." on December 15, 2004. On March 23, 2011, "Tate & Lyle Ingredients Americas, Inc." changed its name to "Tate & Lyle Ingredients Americas, LLC". Patentees further acknowledge that the recordation showing the name change to "Tate & Lyle Ingredients Americas, LLC" was not recorded with the Office until August 9, 2011.

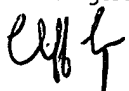
Patentees argue that because they are merely seeking a Certificate of Correction to reflect a name change, and not a change in ownership, the date of recordation of that name change should not preclude issuance of a Certificate of Correction.

Patentees' argument has been considered, but is not persuasive. The Office does not distinguish between a name change and a change of ownership in 37 CFR 3.81(b).

However, the Office will issue a Certificate of Correction reflecting the assignee "A.E. Staley Manufacturing Company", as this recordation was recorded prior to issuance of the patent.

**The application is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction, adding "A.E. Staley Manufacturing Company" to the assignee box (73) of the issued patent (appearing as Exhibit 6 in the petition filed November 15, 2011; page 27 / 27 in the Image File Wrapper).**

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

  
Cliff Congo  
Petitions Attorney  
Office of Petitions

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<sup>1</sup> MPEP 307.





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1015 Locust Street Suite 750  
St. Louis MO 63101-1324

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**APR 11 2011**

**OFFICE OF PETITIONS  
NOTICE**

In re Application of :  
Herbert W. Virgin et al. :  
Application No. 10/839,211 :  
Filed: May 5, 2004 :  
Attorney Docket No. **1001-0127** :

This is a notice regarding your request filed February 23, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Kendal M. Sheets appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Kendal M. Sheets desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Kendal M. Sheets, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-4584.

JoAnne Burke  
Petitions Examiner  
Office of Petitions

cc: Kendal M. Sheets  
CPA Global  
2318 Mill Road, Suite 12 Floor  
Alexandria, VA 22314





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JOHN S. PRATT, ESQ  
KILPATRICK TOWNSEND & STOCKTON LLP  
1100 PEACHTREE STREET  
SUITE 2800  
ATLANTA GA 30309

**MAILED**

**MAR 08 2011**

**OFFICE OF PETITIONS**

In re Application of  
David G. Dillard  
Application No. 10/839,269  
Filed: May 5, 2004  
Attorney Docket No: **54663-300450**

**ON PETITION**

This is a decision on the petition to revive the above-identified application, filed January 12, 2011 under 37 CFR 1.137(a).

The petition under 37 CFR 1.137(a) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to file a response to the Final Office Action mailed July 8, 2010 which set a three month extendable period for reply. The instant petition and this decision precede the mailing of the Notice of Abandonment.

A three month extension of time and fee in the amount of \$555 was filed with the instant petition wherein, petitioner asserts unavoidable delay in filing a timely response to the July 8, 2010 Office Action in view of the winter storm that hit the city of Atlanta, GA on January 9, 2011. Petitioner argues further that the governor of Georgia declared a state of emergency and on January 10 and 11, 2011, the streets were largely impassable and were extremely dangerous. The State of Georgia and the City of Atlanta were strongly urging drivers to stay off the roads. The Atlanta office of Kilpatrick Townsend, the undersigned attorney's law firm, was closed because of the inability of employees to get to work. The undersigned attorney was unable to file a response because of the inability to get to his office to get documents necessary for the preparation of the response. January 12, 2011, is the first day applicant's attorney has been able to submit a response.



A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

- (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
- (2) the petition fee as set forth in § 1.17(l);
- (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
- (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3) above.

### **SHOWING OF UNAVOIDABLE DELAY**

Decisions on reviving abandoned applications on the basis of “unavoidable” delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word ‘unavoidable’ . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.<sup>1</sup>

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<sup>1</sup> *In re Mattullath*, 38 App. D.C. 497, 514-15 (1912)(quoting *Ex parte Pratt*, 1887 Dec. Comm’r Pat. 31, 32-33 (1887)); see also *Winkler v. Ladd*, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), *aff’d*, 143 USPQ 172 (D.C. Cir. 1963); *Ex parte Henrich*, 1913 Dec. Comm’r Pat. 139, 141 (1913). In addition, decisions on revival are made on a “case-by-case basis, taking all the facts and circumstances into account.” *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was “unavoidable.” *Haines v. Quigg*, 673 F. Supp. 314,



The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.<sup>2</sup>

The application became abandoned for failure to file a reply to the July 8, 2010 Office Action within three months or at the latest by January 8, 2011 with a three month extension of time pursuant to 37 CFR 1.136(a). The application became abandoned by operation of law prior to the date the storm hit Atlanta because petitioner failed to request an extension of time prior to the expiration of the maximum period obtainable to avoid abandonment.

In view of the impending storm, petitioner should demonstrate why the response wasn't filed prior to the storm.

Further, petitioner has not shown to the satisfaction of the Director that the post offices in Atlanta or the near vicinity were affected by the storm, that they were closed and that petitioner was therefore unable to file the required response.

There was no Official Gazette Notice issued by the USPTO noting that due to the storm in Atlanta, post offices were closed during the period January 8, 2011 through January 11, 2011, and there is no indication that the post office in petitioner's zip code area was closed during that period and if so when the post office was reopened.

The argument and the showing presented is therefore insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). As petitioner has presented no showing of unavoidable delay, the petition will be dismissed.

If petitioner does not think that they can provide additional evidence to prevail under the unavoidable standard of review, petitioner may wish to consider filing a petition under 37 CFR 1.137(b),<sup>3</sup> which now provides that where the delay in reply was unintentional,

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316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

<sup>2</sup>Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

<sup>3</sup>Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995,



a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

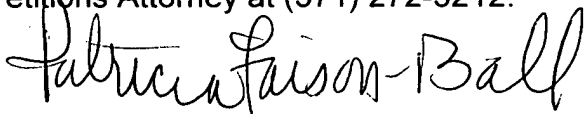
The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). As of the date of this decision, the petition fee pursuant to 37 CFR 1.137(b) and 37 CFR 1.17(m) is set at \$810.00 for a small entity and \$1,620.00 for a large entity.

Further correspondence with respect to this matter should be addressed as follows:

By mail:        Mail Stop Petitions  
                  Commissioner for Patents  
                  P.O. Box 1450  
                  Alexandria VA 22313-1450

By FAX:        (571) 273-8300  
                  Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions

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and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).





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KILPATRICK TOWNSEND & STOCKTON LLP  
1100 PEACHTREE STREET  
SUITE 2800  
ATLANTA GA 30309

**MAILED**

SEP 20 2011

**OFFICE OF PETITIONS**

In re Application of  
David G. Dillard  
Application No. 10/839,269  
Filed: May 5, 2004  
Attorney Docket No: **54663-300450**

**ON PETITION**

This is a decision on the RENEWED PETITION UNDER 37 CFR § 1.137(a) TO REVIVE APPLICATION AS HAVING BEEN UNAVOIDABLY ABANDONED, filed May 9, 2011 under 37 CFR 1.137(a).

The petition is **DISMISSED**.

**BACKGROUND**

This application became abandoned for failure to file a response to the Final Office Action mailed July 8, 2010 which set a three month extendable period for reply. No response having been received prior to the end of the statutory period, this application went abandoned as of midnight October 8, 2010. The date of abandonment is thus October 9, 2010. Prior to the mailing of the Notice of Abandonment, a petition to revive was filed January 12, 2011, under 37 CFR 1.137(a), with a response to the Office Action and a three month extension of time.

Petitioner asserted unavoidable delay in filing a timely response to the July 8, 2010 Office Action in view of the winter storm that hit the city of Atlanta, GA on January 9, 2011. Petitioner argued further that the governor of Georgia declared a state of emergency and on January 10 and 11, 2011, the streets were largely impassable and were extremely dangerous. The State of Georgia and the City of Atlanta were strongly urging drivers to stay off the roads. The Atlanta office of Kilpatrick Townsend, the undersigned attorney's law firm, was closed because of the inability of employees to get to work. The undersigned attorney was unable to file a response because of the inability to get to his office to get documents necessary for the preparation of the response. Finally, petitioner argued that January 12, 2011, was the first day applicant's attorney was able to submit a response.



Petitioner was advised that there was no Official Gazette Notice issued by the USPTO noting that due to the storm in Atlanta, post offices were closed during the period January 8, 2011 through January 11, 2011, and there is no indication that the post office in petitioner's zip code area was closed during that period and if so when the post office was reopened.

The petition was dismissed in a decision mailed March 8, 2011 because petitioner failed to demonstrate to the satisfaction of the Director why the response was not filed prior to period set for reply, or that the post offices in Atlanta or the near vicinity were closed and that petitioner was therefore unable to file the required response within the extendable period with a proper extension of time.

The instant petition under 37 CFR 1.137(a) purports to provide additional evidence as to why petitioners believe the response was delayed and why that delay was unavoidable.

### **STATUTE AND REGULATION**

35 U.S.C. 133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

- (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
- (2) the petition fee as set forth in § 1.17(l);
- (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and



- (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

### **OPINION**

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.<sup>1</sup>

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.<sup>2</sup>

On reconsideration petitioner submits copies of two Associated Press news stories, published on January 11 and 14, reproduced from <http://www.wrcbtv.com> and <http://www.myfoxatlanta.com/> which reported that the post office was unable to deliver mail in the wake of the storm because of icy road conditions and the inability of people to get to work and argues further that, "the issue is not whether a post office was open, but whether Applicant's attorney, using no more or greater care or diligence than is

<sup>1</sup>In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

<sup>2</sup>Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).



generally used, could have reached the post office to mail a response”.

Petitioner's arguments and the evidence presented have been considered but are not persuasive.

At the outset, the application became abandoned for failure to file a reply to the July 8, 2010 Office Action within three months which was October 8, 2010. While petitioner had the opportunity to request a three month extension of time pursuant to 37 CFR 1.136(a), such an extension request was not made prior to the end of the six month statutory period. The application became abandoned by operation of law three months prior to the date the storm hit Atlanta because petitioner failed to request an extension of time prior to the expiration of the maximum period obtainable to avoid abandonment.

Thus in order to establish unavoidable delay, petitioner must not only establish that he was unavoidably delayed on January 10, 2011 from submitting a response (January 8, 2011 was a Saturday and by law petitioner had until Monday January 10, 2011 to submit a request for extension of time and a response) but petitioner must demonstrate that he was unavoidably delayed from submitting a response beginning October 9, 2010 (the date of abandonment) up to the date the response was submitted on January 12, 2011. No such evidence with regards to unavoidable delay has been submitted with respect to the period from October 9, 2010 to January 8, 2011.

As to the period from January 8, 2011 until January 12, 2011, petitioner has not demonstrated that there was a postal interruption. As previously indicated, there was no Official Gazette Notice issued by the USPTO noting that due to the storm in Atlanta, post offices were closed during the period January 8, 2011 through January 11, 2011, and there is no indication that the post office in petitioner's zip code area was closed during that period and if so when the post office was reopened.

There are many options available to practitioners for filing responses, prior to the date the period for reply expires, such as hand delivery, by facsimile transmission, via EFS-Web, by first class mail or by Express Mail.

Any paper or fee required to be filed in the U.S. Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Commissioner. See 35 USC 21.

Irrespective of the weather, in making this determination that the showing of unavoidable delay is not met, it is controlling that the attorney for applicant, had the response been prepared, could have mailed the response with a certificate of mailing by first class mail pursuant to 37 CFR 1.8(a), deposited it in the United States Postal



Service Express Mail service prior to the last scheduled pick-up pursuant to 37 CFR 1.10, or by midnight of that date filed the reply electronically. The weather was not the proximate cause of the delay in filing the reply. Rather, the cause was that attorney for applicant waited until that weekend to prepare his reply. Attorney for applicant may wait until the days before the due date to file a reply to prepare such. However, such a failure to timely file a reply does not constitute unavoidable delay within the meaning of 37 CFR 1.137(a).

No additional evidence has been provided to refute the claim that due care was not exercised in the filing of the response prior to the end of the extendable period set for reply. Since such an error could have been avoided by the exercise of the ordinary care and diligence that is observed by prudent and careful persons with respect to their most important business, petitioner has failed to show the delay in filing the response was unavoidable.

#### **Alternative Venue**

Petitioner should consider filing a petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). As of the date of this decision, the petition fee pursuant to 37 CFR 1.137(b) and 37 CFR 1.17(m) is set at \$810.00 for a small entity and \$1,620.00 for a large entity.

#### **CONCLUSION**

For the above stated reasons, however, petitioner has not carried the burden of proof to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).

Further correspondence with respect to this matter should be addressed as follows:

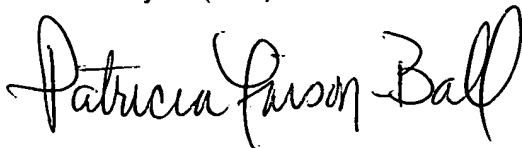
By mail:        Mail Stop Petitions  
                  Commissioner for Patents  
                  P.O. Box 1450



Alexandria VA 22313-1450

By FAX: (571) 273-8300  
Attn: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style.

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Form PTO/SB/64





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Paper No.

DIGIMARC CORPORATION  
9405 SW GEMINI DRIVE  
BEAVERTON OR 97008

**MAILED**

**JUN 23 2011**

**OFFICE OF PETITIONS**

In re Application of	:	
Erickson	:	
Application No. 10/839,305	:	DECISION ON PETITION
Filed: May 4, 2004	:	PURSUANT TO
Attorney Docket No.: P0981	:	37 C.F.R. § 1.137(B)
Title: METHODS FOR PLAYING	:	
PROTECTED CONTENT	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed January 26, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 27, 2010, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 28, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The



Commissioner may require additional information where there is a question whether the delay was unintentional, and;

- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted, *inter alia*, an amendment, the petition fee, and the proper statement of unintentional delay.

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.<sup>1</sup>

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on January 26, 2011 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Petitioner has also submitted a three-month extension of time. An extension of time under 37 C.F.R. § 1.136 must be filed prior to the expiration of the maximum extendable period for reply.<sup>2</sup> Accordingly, since the \$1110 extension of time submitted with the petition on January 26, 2011 was filed subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to Petitioner's Deposit Account in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.<sup>3</sup> All other inquiries

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<sup>1</sup> See Rule 1.137(d).

<sup>2</sup> See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

<sup>3</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).



concerning this application should be directed to the Technology Center.

/Paul Shanowski/

Paul Shanowski

Senior Attorney

Office of Petitions

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## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7000994	2006-02-21	10839490	2004-05-05	82059

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☒ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/Cassie Leighton/	Date (YYYY-MM-DD)	2010-11-22
Name	Cassie Leighton		
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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[www.uspto.gov](http://www.uspto.gov)

In re Patent No. 7000994 :  
Issue Date: February 21, 2006 :  
Application No. 10839490 :DECISION GRANTING PETITION  
Filed: May 5, 2004 :UNDER 37 CFR 1.378(c)  
Attorney Docket No. 82059 :

This is a decision on the electronic petition, filed November 30, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 30, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.





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**Caven & Aghevli LLC**  
**c/o CPA Global**  
**P.O. BOX 52050**  
**MINNEAPOLIS MN 55402**

**MAILED**

**AUG 29 2011**

**OFFICE OF PETITIONS**

In re Application of	:	
Eduard Lecha	:	
Application No. 10/839,529	:	DECISION ON PETITION
Filed: May 4, 2004	:	
Attorney Docket No. P18325	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 19, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 14, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed April 14, 2011. Accordingly, the date of abandonment of this application is July 15, 2011. The Notice of Abandonment was mailed July 28, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1510 and the publication fee of \$300, (2) the petition fee of \$1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Office of Data Management for processing into a patent.

/Terri Johnson/  
Terri Johnson  
Petitions Examiner  
Office of Petitions



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6894136	2005-05-17	10/839,541	2004-05-04	MLEX-30723

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Grady K. Bergen/	Date (YYYY-MM-DD)	2010-12-07
Name	Grady K. Bergen	Registration Number	37587
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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Alexandria, VA 22313-1450  
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In re Patent No.	6894136	:
Issue Date:	May 17, 2005	:
Application No.	10839541	:DECISION GRANTING PETITION
Filed:	May 4, 2004	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	7259-1-CIP	:

This is a decision on the electronic petition, filed December 7, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 7, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.





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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. BOX 2938  
MINNEAPOLIS MN 55402

**MAILED**

**SEP 30 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,739,049  
Issued: June 15, 2010  
Application No. 10/839,785  
Filed: May 5, 2004  
Attorney Docket No. 1880.007US1

: DECISION ON REQUEST  
: FOR RECONSIDERATION  
: OF PATENT TERM ADJUSTMENT  
: AND  
: NOTICE OF INTENT TO ISSUE  
: CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR POST ISSUE PATENT TERM ADJUSTMENT UNDER 37 C.F.R §. 1.705(b)" filed July 2, 2010, requesting that the patent term adjustment determination for the above-identified patent be changed from 906 days to 1111 days. Since the request is after issuance, the request is being treated under 37 CFR 1.705(d). Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).<sup>1</sup>

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is adjusted by one thousand one hundred eleven (1111) days and is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred eleven (1111) days**.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

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<sup>1</sup>Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in Wyeth v. Kappos, 2009-1120 (Fed. Cir. 1-7-2010).



**DRAFT**  
**UNITED STATES PATENT AND TRADEMARK OFFICE**  
**CERTIFICATE OF CORRECTION**

PATENT : 7,739,049 B2

DATED : June 15, 2010

INVENTOR(S) : Jennifer Market

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (906) days

Delete the phrase "by 906 days" and insert – by 1111 days--



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.: 20100818

DATE : 08/16/10

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction for Appl. No.: 10839785 Patent No.: 7739049

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (C of C)  
Randolph Square 9D40-D  
Palm Location 7580**

**You can fax the Directors/SPE response to 571-270-9990**

*Lamonte Newsome*

Certificates of Correction Branch

703-756-1574

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: CONFIRMED w/ APPLICANT'S REPRESENTATIVE, MARK MULLER (37504)  
on 8/18/2010 THAT A "SIGNAL" SHOULD BE INSERTED INTO THE REQUESTED  
AMENDMENT BETWEEN "BROADBAND" AND "COMPOSITES" SEE ATTACHED SHEET.

  
**DREW A. DUNN**

**SUPERVISORY PATENT EXAMINER**

A02863



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.  
(Also Form PTO-1050)

## UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO : 7,739,049

Page (1) of 1

DATED : June 15, 2010

INVENTOR(S) : Jennifer Market et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column 11, line 47, in Claim 3, delete "where" and insert - - wherein - -, therefor.

In column 12, line 22, delete "claim 9, wherein generating at least two frequencies to form the simulated broadband signals to form the simulated broadband signal comprises generating at least two sonic frequencies." and insert - - claim 8, wherein generating at least two frequencies to form the simulated broadband comprises generating at least two sonic frequencies. - -, therefor.

^  
signal

DAI 8/18/10

MAILING ADDRESS OF SENDER:

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. BOX 2938  
Minneapolis, MN 55402

Atty Docket No: 1880.007US1

PATENT NO. 7,739,049

No. of additional copies

⇒



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Paper No.:**20110407

**DATE** : November 02, 2009

**TO SPE OF** : ART UNIT 2475

**SUBJECT** : Request for Certificate of Correction on Patent No.: 6,928,050

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

**Certificates of Correction Branch - ST (South Tower) 9A22**

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance**

**Certificates of Correction Branch**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:**

All corrections are approved.

/DANG T TON/  
Supervisory Patent Examiner, Art Unit 2475



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7132008	2006-11-07	10839920	2004-05-06	976-136

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                                 | Fee | Code   |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year  |     | (1551) |
| <input type="radio"/> 7 ½ year  |     | (1552) |
| <input type="radio"/> 11 ½ year |     | (1553) |

### Small Entity

- |   | Fee | Code   |
|---|-----|--------|
| <input checked="" type="radio"/> 3 ½ year |     | (2551) |
| <input type="radio"/> 7 ½ year            |     | (2552) |
| <input type="radio"/> 11 ½ year           |     | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/JF/	Date (YYYY-MM-DD)	2010-12-14
Name	Janet Farrant	Registration Number	32453
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

In re Patent No. 7132008 :  
Issue Date: November 7, 2006 :  
Application No. 10839920 :DECISION GRANTING PETITION  
Filed: May 6, 2004 :UNDER 37 CFR 1.378(c)  
Attorney Docket No. 975-136 :

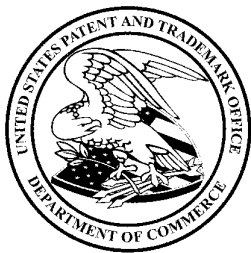
This is a decision on the electronic petition, filed December 16, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 16, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.





## UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Decision Date : May 17,2011

In re Application of :

Martin Weel

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10840110

Filed : 05-May-2004

Attorney Docket No : 1116-065

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed May 17,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

**Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2441 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions



Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	<b>PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)</b>	
Application Number	10840110	
Filing Date	05-May-2004	
First Named Inventor	Martin Weel	
Art Unit	2441	
Examiner Name	OANH DUONG	
Attorney Docket Number	1116-065	
Title	SYSTEM AND METHOD FOR SHARING PLAYLISTS	
<p>An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.</p> <p>APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).</p> <p>A grantable petition requires the following items:</p> <p>(1) Petition fee; and</p> <p>(2) One of the following reasons:</p> <p>(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;</p> <p>(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or</p> <p>(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).</p>		
<p>Petition Fee</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY</p>		
Reason for withdrawal from issue		



- ☐ One or more claims are unpatentable
- ☒ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)
- ☐ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request, submission, and fee.

- ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that:
- ☐ The RCE request, submission, and fee have already been filed in the above-identified application on
- ☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ☐ A joint inventor; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/R. Chad Bevins/
Name	R. Chad Bevins
Registration Number	51468





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[www.uspto.gov](http://www.uspto.gov)

**CESARI AND MCKENNA, LLP**  
**88 BLACK FALCON AVENUE**  
**BOSTON, MA 02210**

**MAILED**

**JAN 26 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,200,145  
Issued: April 3, 2007  
Application No. 10/840,212  
Filed: May 5, 2004  
Attorney Docket No. 112025-0199C1

:  
: DECISION GRANTING PETITION  
: UNDER 37 CFR 1.78(a)(3) AND  
: REQUEST FOR CERTIFICATE  
: OF CORRECTION

This is a decision on the petition, filed November 5, 2010, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/575,774, filed May 22, 2000, by way of a certificate of correction.

The petition is **GRANTED**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed May 5, 2004. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim as due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.



As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

The \$100 Certificate of Correction fee will be charged to petitioner's deposit account as authorized.

A Certificate of Correction was issued on December 28, 2010.

Any inquiries concerning this decision may be directed to Alicia Kelley at (571) 272-6059.

This matter is being referred to the Certificates of Correction Branch.

/Liana Walsh/  
Liana Walsh  
Petitions Examiner  
Office of Petitions

**ATTACHMENT:** Corrected Filing Receipt





UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
10/840,212	05/05/2004	2616	3464	112025-0199C1	46	23

CONFIRMATION NO. 7613

CORRECTED FILING RECEIPT



OC000000045676694

Date Mailed: 01/26/2011

24267  
CESARI AND MCKENNA, LLP  
88 BLACK FALCON AVENUE  
BOSTON, MA 02210

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

**Applicant(s)**

Thomas J. Edsall, Cupertino, CA;  
Marco Foschiano, San Jose, CA;  
Michael Fine, San Francisco, CA;  
Thomas Nosella, Sunnyvale, CA;

**Power of Attorney:** The patent practitioners associated with Customer Number 24267

**Domestic Priority data as claimed by applicant**

**Foreign Applications** (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.)

**If Required, Foreign Filing License Granted:** 07/10/2004

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/840,212**

**Projected Publication Date:** Request for Non-Publication Acknowledged

**Non-Publication Request:** Yes

**Early Publication Request:** No



**Title**

PRIVATE VLANS

**Preliminary Class**

370

**PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES**

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

**LICENSE FOR FOREIGN FILING UNDER**

**Title 35, United States Code, Section 184**

**Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as



set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

#### **NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

DATE : 11/18/11

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction for Appl. No.: 10840281 Patent No.: 8017922

CofC mailroom date: 11/08/11

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**  
**Randolph Square – 9D10-A**  
**Palm Location 7580**

**571-272-3421**

Note: **Should the changes in the claims be approved?**

**Yes. /NP/**

*Lamonte Newsome*

**Certificates of Correction Branch**

**571-272-3421**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

**Specify below which changes do not apply.**



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

☐ **Denied**

State the reasons for denial below.

**Comments:** changes approved

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

/Nimeshkumar D. Patel/

2879

**SPE**

**Art Unit**





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P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

DW Nov-10

DEEP LIQUIDITY, INC.  
6101 W. COURTYARD, BUILDING 1  
SUITE 110  
AUSTIN TX 75730

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Application of  
Sam Balabon.  
Application No. 10/840,378  
Filing Date: May 7, 2004  
Attorney Docket No. 12664-3

:  
:  
: ON PETITION  
:  
:

This is a decision on the petition under 37 CFR 1.137(a), filed on July 27, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned for failure to timely file a proper response to the final Office action mailed on November 10, 2009, which set a three (3)-month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. A Notice of Abandonment was mailed on July 7, 2010.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee;

(2) the petition fee as set forth in § 1.17(l);



- (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
- (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3) above.

Petitioner states that “On January 26, 2010, Applicant filed an after final amendment in response to the Examiner’s instructions. On May 17, 2010 the Examiner called applicant and told applicant that she never received an after final amendment and the cutoff date to receive the amendment was May 10, 2010. Applicant told her that he did submit an after final amendment and then emailed her the after final amendment and proof of the electronic filing (see attached, EFS ID: 6879895). She said that she would take a look at the late (lost by PTO) amendment after final, but the claim language would have to be exact condition for allowance in order for her to issue the patent. She said her hands were tied the 6 month window for the case was closed and she could not work on the case. There was even talk that if the examiner worked on the case after the 6 month window elapsed and the patent was issued it could be deemed invalid at a later date.”

Petitioner further states that “ The applicant was very upset after hearing about the state of the application, on two fronts, the time delay and the additional expense he would have to be incurred to further prosecute the application. He then requested a telephone conference call with the supervising examiner. This conference call occurred on July 7, 2010. On the call, there was, Primary Examiner Virpi Kanervo, Examiner Hani Kazimi and the Supervising Examiner Alexander Kalinowski. The applicant told the examiners that he was going to stand pat on the case and would rather appeal the case than pursue a continuation of the case. Applicant asked what he should do next. Mr. Kalinowski told him that he should file a petition to revive the application and stated that it was “unavoidable” and to file a notice of appeal. Applicant followed these instructions and filed the petition and notice of appeal.”

As to item (3), the Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Director to have been “avoidable.” See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications on the basis of “unavoidable” delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word ‘unavoidable’ . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually



employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.<sup>1</sup>

Regrettably, the petition under 37 CFR 1.137(a) is dismissed. In the instant case, petitioner has failed to provide adequate evidence that the delay was unavoidable.

The rules of practice are clear that prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last Office action, or refusal to admit the same, shall not operate to save the application from abandonment. "[T]he admission of, or refusal to admit, any amendment after final rejection, and any proceedings relative thereto, shall not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under § 1.135." See 37 CFR 1.116(a).

Further, the abandonment of an application subject to a final Office action is not "unavoidable" within the meaning of 35 U.S.C. 133 and 37 CFR 1.137(a) in the situation in which the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. At 53162, 1203 Off. Gaz. Pat. Office at 89 (response to comment 66).

Petitioner is reminded that an Advisory Action does not start a new period for response. The application became abandoned because petitioner did not submit a **proper** reply to the final Office action mailed November 10, 2009. The amendments filed on January 11, 2010 and January 26, 2010 was **not proper**.

Applicant is encouraged to note 37 CFR §1.2 regarding applicant's statement that "Mr. Kalinowski told him that he should file a petition to revive the application and stated that it was "unavoidable."

*37 CFR § 1.2 states that:*

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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<sup>1</sup> In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."



Also, applicant should be aware of the two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)). The Notice of Appeal was filed on July 27, 2010.

Petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an “unintentionally” abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was “unavoidable.” This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An “unintentional” petition under 37 CFR 1.137(b) must be accompanied by the petition fee set forth in 37 CFR 1.17(m).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

- By mail:                      Mail Stop PETITIONS  
                                    Commissioner for Patents  
                                    Post Office Box 1450  
                                    Alexandria, VA 22313-1450
- By hand:                     Customer Service Window  
                                    Mail Stop Petitions  
                                    Randolph Building  
                                    401 Dulany Street  
                                    Alexandria, VA 22314
- By fax:                        (571) 273-8300  
                                    ATTN: Office of Petitions
- By internet:                EFS-Web  
                                    [www.uspto.gov/ebs/efs\\_help.html](http://www.uspto.gov/ebs/efs_help.html)  
                                    (for help using EFS-Web call the  
                                    Patent Electronic Business Center  
                                    at (866) 217-9197)



Application No. 10/840,378

Page 5

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/  
Karen Creasy  
Petitions Examiner  
Office of Petitions





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United States Patent and Trademark Office  
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Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**DEEP LIQUIDITY, INC.**  
**6101 W. COURTYARD, BUILDING 1**  
**SUITE 110**  
**AUSTIN TX 75730**

**MAILED**  
**FEB 14 2011**  
**OFFICE OF PETITIONS**

In re Application of	:	
Sam Balabon	:	
Application No. 10/840,378	:	DECISION ON PETITION
Filed: May 7, 2004	:	
Attorney Docket No. 12664-3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 20, 2011, to revive the above-identified application.

The petition is **GRANTED**.

**The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.**

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 10, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal; (2) the petition fee of \$810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.



This application is being referred to Technology Center AU 3691 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

/KOC/  
Karen Creasy  
Petitions Examiner  
Office of Petitions





Patent No. : 7,322,490 B2  
Ser. No. : 10/840,415  
Inventor(s) : Ryu et al.  
Issued : Jan. 29,2008  
Title : LIQUID CRYSTAL DISPENSING SYSTEM AND METHOD OF  
DISPENSING LIQUID CRYSTAL MATERIAL USING SAME  
Docket No. : 8734.301.00- US  
Re: Request for Certificate of Correction

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing *incorrect or erroneous* assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P.) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- In the Request*, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

**By mail:**

**Mail Stop PETITIONS  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450**



By hand: Customer Service Window  
Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

By fax: (703) 872-9306  
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

**Ennis Young**  
For Mary Diggs  
Decisions & Certificates  
of Correction Branch  
(571) **272-3435** or (703) 756-1814





UNITED STATES PATENT AND TRADEMARK OFFICE

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MCKENNA LONG & ALDRIDGE LLP  
1900 K STREET, NW  
WASHINGTON DC 20006

**MAILED**

APR 04 2012

OFFICE OF PETITIONS

In re Patent No. 7,322,490  
Issue Date: January 29, 2008  
Application No. 10/840,415  
Filed: May 7, 2004  
Attorney Docket No. 8734.301.00-US

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DECISION ON PETITION

This is a decision on the Request For Correction Of Assignee Under 37 CFR 3.81(b) and Request For Certificate Of Correction Pursuant To 37 CFR 1.323, which is being treated as a Petition Under 37 CFR §3.81(b), filed January 23, 2012, to accept the omission of the second assignee's name. A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present petition was submitted to accept the omission of the second assignee's name on the previously submitted PTOL-85B and such error was inadvertent. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

*After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.



U.S. Patent No. 7,322,490  
Application No. 10/840,415  
Decision on Petition under 37 CFR §3.81(b)

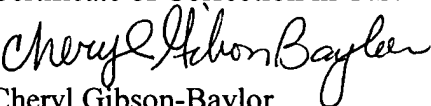
Page 2

The requisite \$100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite \$130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form submitted with the petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,322,490.

  
Cheryl Gibson-Baylor  
Petitions Examiner  
Office of Petitions





UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P.  
20333 SH 249 6th Floor  
HOUSTON TX 77070

**MAILED**

SEP 03 2010

OFFICE OF PETITIONS

In re Patent No. 7,625,694	:	DECISION ON REQUEST FOR
MARSH et al.	:	RECONSIDERATION OF
Issue Date: December 1, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/840,535	:	AND
Filed: May 6, 2004	:	NOTICE OF INTENT TO ISSUE
Attorney Docket No. 102-0097US	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 20, 2010, and July 8, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred twenty-seven (1227) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred twenty-seven (1227) days is **GRANTED**.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred twenty-seven (1227) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

*Christina Tartera Donnell*

Christina Tartera Donnell  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,625,694 B2

DATED : Dec. 1, 2009

**DRAFT**

INVENTOR(S): Marsh et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1117 days

Delete the phrase "by 1117 days" and insert – by 1227 days--





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United States Patent and Trademark Office  
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[www.uspto.gov](http://www.uspto.gov)

DILLON & YUDELL LLP  
8911 NORTH CAPITAL OF TEXAS HWY, SUITE 2110  
AUSTIN, TX 78759

**MAILED**

**JUN 17 2011**

**OFFICE OF PETITIONS**

In re Application of

**Robert H. BELL JR, et al.**

Application No. 10/840,560

Filed: May 6, 2004

Attorney Docket No. **AUS920040123US1**

DECISION ON PETITION TO  
WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Andrew J. Dillon on behalf of all attorneys of record. Andrew J. Dillon has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/  
Petitions Examiner, Office of Petitions





UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
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**MAILED**

**JUL 19 2011**

**OFFICE OF PETITIONS**

THE FARRELL LAW FIRM, P.C.  
290 BROADHOLLOW ROAD  
SUITE 210E  
MELVILLE NY 11747

In re Patent No. 7,307,974  
Issue Date: December 11, 2007  
Application No. 10/840,584  
Filed: May 6, 2004  
Attorney Docket No. 678-1285


ON PETITION

This is a decision on the petition filed May 24, 2011, under 37 CFR 3.81(b)<sup>1</sup> to add the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

  
Irvin Dingle  
Petitions Examiner  
Office of Petitions

<sup>1</sup> See Official Gazette of June 22, 2004



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.: \_\_\_\_\_

DATE : 3/24/11

TO SPE OF : ART UNIT 3714

SUBJECT : Request for Certificate of Correction for Appl. No.: 10840856 Patent No.: 7891664

CofC mailroom date: 03/14/11

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)  
Randolph Square – 9D10-A  
Palm Location 7580**

**Pat 571-272-3421 (CofC) responded to 571-272-9990**

*Lamonte Newsome*

**Certificates of Correction Branch  
571-272-3421**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

**Specify below which changes **do not** apply.**

☐ **Denied**

**State the reasons for denial below.**

**Comments:** Request Approved

\_\_\_\_\_

\_\_\_\_\_

/David L Lewis/

3714



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**SPE**

**Art Unit**



Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH*\*

Attorney Docket  
Number: 106842009000

Application  
Number: 10/840,862

Filing Date  
(or 371(b) or (f) Date): May 6, 2004

Patent Number: 7,663,607 B2

Issue Date: February 16, 2010

First Named  
Inventor: Steve HOTELLING

Title: MULTIPOINT TOUCHSCREEN

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

\**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature	/Glenn M. Kubota/	Date	August 4, 2010
Name (Print/Typed)	Glenn M. Kubota	Registration Number	44,197
<small><b>Note:</b> Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms if more than one signature, see below*.</small>			
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.			





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APPLE c/o MOFO LA  
555 WEST FIFTH STREET SUITE 3500  
SUITE 200  
LOS ANGELES, CA 90013-1024

Mail Date: 08/17/2010

<b>Applicant</b>	: Steve Hotelling	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7663607	: RECALCULATION of PATENT
<b>Issue Date</b>	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/840,862	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 05/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1423** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



<b>Doc Code: PET.AUTO</b> <b>Document Description: Petition automatically granted by EFS-Web</b>		PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	<b>REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS</b>	
Application Number	10840950	
Filing Date	07-May-2004	
First Named Inventor	Vahid Saadat	
Art Unit	3734	
Examiner Name	DIANE YABUT	
Attorney Docket Number	USGINZ00900	
Title	Apparatus and methods for positioning and securing anchors	
<input checked="" type="radio"/> Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: <span style="float: right;">40518</span>		
The reason(s) for this request are those described in 37 CFR: 10.40(b)(4)		
Certifications		
<input checked="" type="checkbox"/> I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment		
<input checked="" type="checkbox"/> I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled		
<input checked="" type="checkbox"/> I/We have notified the client of any responses that may be due and the time frame within which the client must respond		
Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:		
Name	USGI Medical, Inc.	
Address	1140 Calle Cordillera	
City	San Clemente	
State	CA	
Postal Code	92673	
Country	US	



I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature

/Johney U. Han/

Name

Johney U. Han

Registration Number

45565





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Commissioner for Patents  
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[www.uspto.gov](http://www.uspto.gov)

Decision Date : October 7, 2011

In re Application of :

Vahid Saadat

Application No : 10840950

Filed : 07-May-2004

Attorney Docket No : USGINZ00900

DECISION ON REQUEST TO WITHDRAW AS  
ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 7, 2011

The request is **APPROVED**.

The request was signed by John U. Han (registration no. 45565 ) on behalf of all attorneys/agents associated with Customer Number 40518 . All attorneys/agents associated with Customer Number 40518 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name USGI Medical, Inc.  
Name2  
Address 1 1140 Calle Cordillera  
Address 2  
City San Clemente  
State CA  
Postal Code 92673  
Country US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions





**SINSHEIMER JUHNKE LEBENS & MCIVOR, LLP**  
**1010 PEACH STREET**  
**P.O. BOX 31**  
**SAN LUIS OBISPO CA 93406**

**MAILED**

**JAN 19 2011**

In re Application of  
**SCHROEPPEL**, Edward A. et al.  
Application No. 10/841,205  
Filed: May 07, 2004  
Attorney Docket No. **3102.023**

**OFFICE OF PETITIONS**

**DECISION ON PETITION  
TO WITHDRAW  
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 27, 2010.


The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 C.F.R. 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the change of address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under C.F.R. 3.71, who has properly intervened.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

  
Michelle R. Eason  
Paralegal Specialist  
Office of Petitions

cc: **ONCOSTIM, INC.**  
**6901 EAST FISH LAKE ROAD**  
**SUITE 188**  
**MAPLE GROVE, MN 55369**





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Inceptia LLC  
1652 48th Street  
Brooklyn NY 11204

**MAILED**

AUG 25 2010

In re Application of  
Mark Phillips et al.  
Application No. 10/841,216  
Filed: May 7, 2004  
Attorney Docket No. **KMD 2-005**

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2010, to revive the above-identified application.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed November 12, 2009, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on January 13, 2010. See MPEP 1215.04.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$405, and the submission required by 37 CFR 1.114; (2) the petition fee of \$810; and (3) a proper statement of unintentional delay.



Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 2164 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

A handwritten signature in black ink, appearing to read 'JoAnne Burke', with a stylized, cursive script.

JoAnne Burke  
Petitions Examiner  
Office of Petitions





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/841,220	05/07/2004	Mark Phillips	KMD 2-006	8148
7590		09/12/2011	EXAMINER	
Inceptia LLC		JORDAN, KIMBERLY L		
1652 48th Street		ART UNIT		PAPER NUMBER
Brooklyn, NY 11204		2194		
		MAIL DATE		DELIVERY MODE
		09/12/2011		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.





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Benzion A. Wachsman  
General Manager  
Inceptia LLC

**MAILED**  
September 5, 2011  
**SEP 12 2011**

**TECHNOLOGY CENTER 2100**

In-re Application of: )  
Mark Phillips et al. )  
Application No. 10/841,220 ) **DECISION ON REQUEST**  
Filed: May 7, 2004 ) **TO REQUIRE ENTRY**  
For: EXECUTION ENGINE FOR BUSINESS ) **OF AN AMENDMENT**  
PROCESSES )

The examiner initially rejected claims 1-7 in action mailed February 25, 2008. In response, Applicant filed a response canceling all claims originally filed and including new claim 8. In a supplemental amendment, Applicant added new claims 9-16.

In response, the Examiner issued a Notice of Non-Responsive Amendment noting that new claims 8-16 were drawn to an invention separate and distinct from the originally presented claims. The response explicitly states that the amendment would not be entered. Applicant filed an October 2010 response to the Notice in which claims 2-4, 6 and 7 are canceled and claims 1 and 5 amended. In this response, Applicant asserts his right to amend claims during prosecution which materially change the scope of the invention.

In December of 2010, the Examiner mailed a second Notice of Non-Responsive Amendment in which he noted that the only claims pending, amended claims 1 and 5, are directed to an invention separate and distinct from the invention as originally claimed. In the notice, the Examiner did not explicitly state that the claims would not be entered. Applicant filed a response in April 2011 which amended claim 1, canceled claims 2-7, and added new claim 17. However, this response was based on the assumption that the response filed October 2010 was entered. The examiner refused to enter the April response and Applicant petitions the refusal to enter claims submitted April 2011.

Petitioner notes that the Examiner did not indicate that claims were not entered in the December 2010 Action and that he presumed that the claims were entered. As a basis of his traversal, Petitioner directs attention to MPEP 821.03. However, in the amendment submitted October 6, 2010, only claims 1 and 5 are pending. All other claims are canceled. As both claims are directed to inventions distinct and independent, the examiner correctly refused to enter the amendment. There is nothing in the section cited by Petitioner which suggests that the Examiner is obliged to enter amendments directed to a new invention. Indeed a fair reading of the section clearly indicates that the claims would not be entered.



Thus the examiner was correct in his refusal to enter claims submitted in April 2011. Further, as the claims submitted in the April 2011 response, were amended based claims previously submitted but not entered, this response is in fact non-responsive as well. If Applicant had any concerns as to the status of the claims, the examiner should have been contacted for clarification. In addition, as both Notices made clear that amendments presented only claims directed to an invention different from claims are originally filed, it is clear that the status of both sets of claims would have been the same.

However, as Applicant appears to have made a bona fide attempt to comply with the requirements, an agreement was reached in an interview held with Mr. Benzion Wachsman on June 27, 2011 to enter an amendment based on claims as originally filed as none of the intervening amendments filed have been entered.

The amendment filed June 27, 2011 has been entered and forwarded to the examiner to handle in due course.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3591.

/Gail O. Hayes/  
Gail O. Hayes  
Special Program Examiner/Quality Assurance Specialist  
Technology Center 2100  
Computer Architecture, Software, and  
Information Security





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FULWIDER PATTON LLP  
HOWARD HUGHES CENTER  
6060 CENTER DRIVE, TENTH FLOOR  
LOS ANGELES, CA 90045

**MAILED**

**JAN 18 2011**

**OFFICE OF PETITIONS**

In re Application of  
John GOWAN, et al  
Application No. 10/841,257  
Filed: May 6, 2004  
Attorney Docket No. HYAIR:55826

DECISION ON PETITION

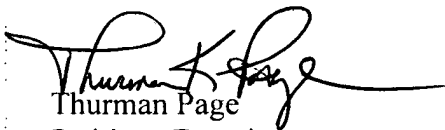
This is a decision on the petition under 37 CFR 1.182, filed, June 26, 2009, to change the name of inventor "Gary DeVlieg" to – Garrett H. DeVlieg --.

The petition is **GRANTED**.

The appropriate fee for a certificate of correction has been paid.

The Certificates of Correction Branch will be notified of this decision granting the petition and directing issuance of the requested Certificate of Correction.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at (571) 272-6735. Inquires regarding the certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

  
Thurman Page  
Petitions Examiner  
Office of Petitions





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QUALCOMM INCORPORATED  
5775 MOREHOUSE DR.  
SAN DIEGO, CA 92121

Mail Date: 08/04/2010

<b>Applicant</b>	: Nitin Kasturi	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7657275	: RECALCULATION of PATENT
<b>Issue Date</b>	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/841,299	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 05/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1440** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.





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Decision Date : October 7, 2011

In re Application of :

Jesus Flores

Application No : 10841411

Filed : 07-May-2004

Attorney Docket No : USGINZ01200

DECISION ON REQUEST TO WITHDRAW AS  
ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 7, 2011

The request is **APPROVED**.

The request was signed by Johny U. Han (registration no. 45565 ) on behalf of all attorneys/agents associated with Customer Number 40518 . All attorneys/agents associated with Customer Number 40518 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name USGI Medical, Inc.  
Name2  
Address 1 1140 Calle Cordillera  
Address 2  
City San Clemente  
State CA  
Postal Code 92673  
Country US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions



<b>Doc Code: PET.AUTO</b> <b>Document Description: Petition automatically granted by EFS-Web</b>		PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	<b>REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS</b>	
Application Number	10841411	
Filing Date	07-May-2004	
First Named Inventor	Jesus Flores	
Art Unit	3734	
Examiner Name	DIANE YABUT	
Attorney Docket Number	USGINZ01200	
Title	APPARATUS AND METHODS FOR POSITIONING AND SECURING ANCHORS	
<input checked="" type="radio"/> Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: <span style="float: right;">40518</span>		
The reason(s) for this request are those described in 37 CFR: 10.40(b)(4)		
Certifications		
<input checked="" type="checkbox"/> I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment		
<input checked="" type="checkbox"/> I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled		
<input checked="" type="checkbox"/> I/We have notified the client of any responses that may be due and the time frame within which the client must respond		
Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:		
Name	USGI Medical, Inc.	
Address	1140 Calle Cordillera	
City	San Clemente	
State	CA	
Postal Code	92673	
Country	US	



I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Johney U. Han/
Name	Johney U. Han
Registration Number	45565





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In re Patent No. 7311580 :  
Issue Date: December 25, 2007 :  
Application No. 10841696 :DECISION GRANTING PETITION  
Filed: May 6, 2004 :UNDER 37 CFR 1.378(c)  
Attorney Docket No. 46568-211886 :

This is a decision on the electronic petition, filed March 19, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 19, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7311580	2007-12-25	10841696	2004-05-06	

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/James D. Petruzzi 35644/	Date (YYYY-MM-DD)	2012-03-19
Name	James D. Petruzzi	Registration Number	35644
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/841,725	05/08/2004	James J. Bozek	BEA920040030US1	1556
61780	7590	12/08/2011		
LAW OFFICES (Raleigh) 550 w Baseline Rd #102-275 Mesa, AZ 85210			EXAMINER TRUONG, CAMQUY	
			ART UNIT 2196	PAPER NUMBER
			NOTIFICATION DATE 12/08/2011	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

MIKE@DRYJAPAT.COM





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Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

LAW OFFICES (Raleigh)  
550 w Baseline Rd #102-275  
Mesa AZ 85210

Applicant: Bozek et al.  
Appl. No.: 10/841,725  
Filing Date: May 8, 2004  
Title: DYNAMIC MIGRATION OF VIRTUAL MACHINE COMPUTER PROGRAMS UPON  
SATISFACTION OF CONDITIONS  
Attorney Docket No.: BEA920040030US1  
Pub. No.: US 2005/0251802 A1  
Pub. Date: November 10, 2005

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on December 5, 2011, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission.** The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission and must include a copy of the application in compliance with the Office electronic filing system requirements. The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:



[http://www.uspto.gov/ebc/portal/efs/pgpub\\_quickstart.pdf](http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf)

Any questions or requests for reconsideration of the decision should be addressed as follows:

By mail to: Mail Stop PGPUB  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.



Tammy J. Koontz  
Office of Data Management  
United States Patent & Trademark Office

Adjustment date: 12/09/2011 KKING1  
12/06/2011 INTEFSW 00003103 10841725  
01 FC:1504 -300.00 OP

Refund Ref: 0030105345  
12/09/2011

Credit Card Refund Total: \$300.00

Am Exp.: XXXXXXXXXXXX4004





## UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

In re Patent No. 7014266  
Issue Date: March 21, 2006  
Application No. 10841733  
Filed: May 7, 2004  
Attorney Docket No. 2004-062

:

:DECISION GRANTING PETITION  
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed November 29, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 29, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7014266	2006-03-21	10841733	2004-05-07	2004-062

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                                 | Fee | Code   |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year  |     | (1551) |
| <input type="radio"/> 7 ½ year  |     | (1552) |
| <input type="radio"/> 11 ½ year |     | (1553) |

### Small Entity

- |   | Fee | Code   |
|---|-----|--------|
| <input checked="" type="radio"/> 3 ½ year |     | (2551) |
| <input type="radio"/> 7 ½ year            |     | (2552) |
| <input type="radio"/> 11 ½ year           |     | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Steven N. Fox/	Date (YYYY-MM-DD)	2010-11-29
Name	Steven N. Fox	Registration Number	33237
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

Patent No. : 7699864  
Serial No. : 10/841799  
Inventor(s) : George F. Kick, et al.  
Issued : 04/20/2010  
Title : EXPANDABLE MEDICAL ACCESS DEVICE  
Docket No. : ONSET.004A

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322, or 1.323.

The alleged error in column 1, line 2, below the Title appearing in the printed patent is a change made in accordance with the Style Manual of the Government Printing Office and the Patent Data Base Entry Preparation Manual. Therefore, no Correction is in order here under Rules 1.322 or 1.323.

In view of the foregoing, your request, in this matter, is hereby denied.

A Certificate of Correction will be issued for the remaining errors noted in your request.

Tasneem Siddiqui  
For Mary Diggs (Supervisor)  
Decisions & Certificates  
of Correction Branch  
(703) 756-1593 or (703) 756-1814  
Date: 8/13/2010

Address: Rabinder N. Narula  
KNOBBE, MARTENS, OLSON & BEAR, LLP  
2040 Main Street, 14<sup>th</sup> Floor  
Irvine, California 92614

ts/md



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**PAPER NO.:**

**DATE** : 8/13/10

**TO SPE OF** : ART UNIT: 3731 Attn: JACKSON GARY (SPE)

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 10/841799 Patent No.: 7699864

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)  
Randolph Square Building (RSQ)  
2800 South Randolph Street, Suite 9XXXX  
Arlington, VA 22206  
PALM Location 7580

**Tasneem Siddiqui**

**Please check the Drawings**

\_\_\_\_\_  
Certificates of Correction Branch  
703-756-1593

**Thank You for Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

**All changes apply.**

☐ **Approved in Part**

**Specify below which changes **do not** apply.**

☐ **Denied**

**State the reasons for denial below.**

**Comments:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**/Anhtuan T. Nguyen/**

**SPE**

\_\_\_\_\_  
**3731**

**Art Unit**



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**PAPER NO.:**

**DATE** : 8/13/10

**TO SPE OF** : ART UNIT: 3731 Attn: JACKSON GARY (SPE)

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 10/841799 Patent No.: 7699864

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)  
Randolph Square Building (RSQ)  
2800 South Randolph Street, Suite 9XXXX  
Arlington, VA 22206  
PALM Location 7580

**Tasneem Siddiqui**

**Please check the Drawings**

\_\_\_\_\_  
Certificates of Correction Branch  
703-756-1593

**Thank You for Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **X Approved**

**All changes apply.**

☐ **Approved in Part**

**Specify below which changes do not apply.**

☐ **Denied**

**State the reasons for denial below.**

**Comments:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**/Anhtuan T. Nguyen/**

**SPE**

\_\_\_\_\_  
**3731**  
**Art Unit**





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Alexandria, VA 22313-1450  
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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC  
ATTN: IP DOCKETING  
P.O. BOX 7037  
ATLANTA GA 30357-0037

**MAILED**

**NOV 15 2010**

In re Application of	:	<b>OFFICE OF PETITIONS</b>
Cherepinsky et al.	:	
Application No. 10/841,931	:	<b>DECISION ON PETITION</b>
Filed: May 7, 2004	:	
Attorney Docket No. CHMAP-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 20, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due, which was mailed June 1, 2010. The Notice of Allowance and Fee (s) Due and the Notice of Allowability set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 2, 2010. A Notice of Abandonment was mailed on September 14, 2010.

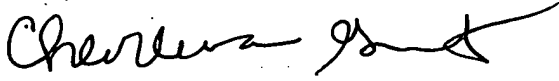
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the \$1510 issue and publication fees of \$300, (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

If appropriate a change of address should be submitted. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.



This application is being referred to the Office of Data Management for further processing.



Charlema Grant  
Petitions Attorney  
Office of Petitions

Cc: Womble Carlyle Sandridge & Rice PLLC  
1401 Eye Street, N.W.  
Seventh Floor  
Washington, DC 20005





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Commissioner for Patents  
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P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

VLADIMIR ANATOL SHREIDER  
6 / 10 MACKEY ST., LALOR  
MELBOURNE, VICTORIA 3075 AU AUSTRALIA

**MAILED**

**AUG 02 2010**

**OFFICE OF PETITIONS**

In re Application of :  
Vladimir Anatol SHREIDER et al. :  
Application No. 10/841,997 : **DECISION ON PETITION**  
Filed: May 10, 2004 :  
Attorney Docket No. :

This is a decision on the petition, filed November 25, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DIMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." See 37 CFR 1.181(f).

This application was held abandoned for failure to reply to the Office action mailed May 10, 2007, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 11, 2007.

Petitioner asserts that the Office action dated May 10, 2007 was not received.

A review of the Office records indicates a change of address filed by the inventor was received on February 05, 2007, prior to the mailing of the Office action of May 10, 2007. However, the change of address does not include the signatures of all inventors and therefore will not be entered.



The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFRt 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
- (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
- (3) An assignee as provided for under §3.71(b) of this chapter; or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Vladimir A. Shreider) was ever given a power of attorney to act on behalf of inventor Natalia Shreider, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

Further correspondence with respect to this matter should be addressed as follows:

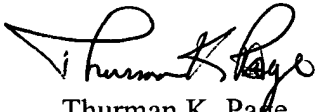
By mail:                      Mail Stop Petition  
                                    Commissioner for Patents  
                                    P.O. Box 1450  
                                    Alexandria, VA 22313-1450

By FAX:                      (571) 273-8300  
                                    Attn: Office of Petitions

By hand:                      Customer Service Window  
                                    Randolph Building  
                                    401 Dulany Street  
                                    Alexandria, VA 22314



Telephone inquiries related to this decision may be directed to Michelle R. Eason at (571) 272-4231.



Thurman K. Page  
Petitions Examiner  
Office of Petitions

cc: **VLADIMIR ANATOL SHREIDER**  
**1401/55 MOREHEAD ST., REDFERN**  
**SYDNEY, NEW SOUTH WALES 2016**  
**AUSTRALIA**



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7213680	2007-05-08	10842082	2004-05-10	2138812-000006

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/carl m davis ii/	Date (YYYY-MM-DD)	2011-05-19
Name	Carl M. Davis II	Registration Number	31502
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





## UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

In re Patent No. 7213680  
Issue Date: May 8, 2007  
Application No. 10842082  
Filed: May 10, 2004  
Attorney Docket No. 2138812-000006

:

:DECISION GRANTING PETITION  
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed May 19, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 19, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.





UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

**HAMILTON, BROOK, SMITH & REYNOLDS, P.C.**  
**530 VIRGINIA ROAD**  
**P.O. BOX 9133**  
**CONCORD MA 01742-9133**

**MAILED**

**JAN 10 2011**

**OFFICE OF PETITIONS**

In re Application of  
Ernest SANTIN, et al  
Application No. 10/842,220  
Filed: May 10, 2004  
Attorney Docket No. 4602.1000-002

**DECISION ON PETITION  
TO WITHDRAW  
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 30, 2010.

The request is **NOT APPROVED**.

The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of an assignee of the entire interest who has been properly made of record under 37 CFR 3.71 or the first named inventor.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/  
Diane C. Goodwyn  
Petitions Examiner  
Office of Petitions

cc: LOUISE S. MACDONALD  
2 BONAD ROAD  
BEVERLY FARMS, MA 01915





UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

**MAILED**

**MAR 01 2011**

**OFFICE OF PETITIONS**

**HAMILTON, BROOK, SMITH & REYNOLDS, P.C.**  
**530 VIRGINIA ROAD**  
**P.O. BOX 9133**  
**CONCORD, MA 01742-9133**

In re Application of	:	
SANTIN, et al	:	
Application No. 10/842,220	:	DECISION ON PETITION
Filed: May 10, 2004	:	TO WITHDRAW
Attorney Docket No. 4602.1000-002 (SCA-001.03)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 20, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Mark B. Solomon and the attorneys of record associated with Customer No. 21005, has been revoked by the assignee of the patent application on January 24, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-6735.

/Diane C. Goodwyn/  
Diane C. Goodwyn  
Petitions Examiner  
Office of Petitions

Cc: SANOSTEC CORP.  
P.O. BOX 5650  
BEVERLY FARMS, MA 01915



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Paper No.:**20100911

**DATE** : September 11, 2010

**TO SPE OF** : ART UNIT 1626

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7,297,709

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

**Certificates of Correction Branch - ST (South Tower) 9A22**

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance**

**Certificates of Correction Branch**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriated box.

☐ **Approved**

All changes apply.

☒ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:**

The Certificate of Correction is approved in Part, except the follows because they lack support in the original disclosure:

1. Page 5, Column 64, line 67: there is no support for "9.15 (s, 1H)".
2. Page 6, Column 69, line 4: there is no support for "J=5.43 Hz, 2H".
3. page 7, Column 120, line 10: there is no support for "1H".

/Joseph K. McKane/  
Supervisory Patent Examiner, Art Unit 1626



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Paper No.:20100911**

**DATE** : September 11, 2010

**TO SPE OF** : ART UNIT 1626

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7,297,709

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

**Certificates of Correction Branch - ST (South Tower) 9A22**

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance**

**Certificates of Correction Branch**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriated box.

☐ **Approved**

All changes apply.

☒ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:**

The Certificate of Correction is approved in Part, except the follows because they lack support in the original disclosure:

1. Page 5, Column 64, line 67: there is no support for "9.15 (s, 1H)".
2. Page 6, Column 69, line 4: there is no support for "J=5.43 Hz, 2H".
3. page 7, Column 120, line 10: there is no support for "1H".

/Joseph K. McKane/  
Supervisory Patent Examiner, Art Unit 1626





UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Date Mailed :September 13, 2010  
Serial No. : 10/842292  
Patent No. :7,297,709 B2  
Patent Issued :November 20, 2007  
Inventor(s) :Yujia Dai, et al.  
Title :INDAZOLE, BENZISOXAZOLE, AND BENZISOTHIAZOLE KINASE  
INHIBITORS

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule 1.322.

Respecting the alleged errors noted in your request, the certificate of correction is approved in part, except the corrections below because they lack support in the original disclose. Column 64, line 67 there is no support for "9.15(s, 1H)". Column 69, line 4 there is no support for "J=5.43 Hz, 2H". Column 120, line 10, there is no support for "1H.".

In view of the foregoing, your request in this matter is hereby denied.

A certificate will issue for the remaining error noted in your request.

Magdalene Talley  
For Mary Francis Diggs, Supervisor  
Decisions and Certificate  
Of Correction Branch  
(571)272-0423  
Fax 571-270-9942

Abbott Laboratories  
AP6A-1 Dept.377  
100 Abbott Park Rd.  
Abbott Park, IL 60064

MD/mt







By hand: Customer Service Window  
Mail Stop Petitions  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

By fax: (703) 872-9306  
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A Certificate of Correction will be issued for the remaining errors.

**Omega Lewis**  
For Mary Diggs  
Decisions & Certificates  
of Correction Branch  
(703)756-1575 or (703) 756-1814

SEAGER, TUFTE & WICKHEM, LLC  
1221 Nicollet Avenue  
Suite 800  
Minneapolis MN 55403

**OL**



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Paper No.:**20110831

**DATE** : August 30, 2011

**TO SPE OF** : ART UNIT 1657

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7875293

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

**Certificates of Correction Branch - ST (South Tower) 9A22**

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance**

**Certificates of Correction Branch**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:**

/JON P WEBER/  
Supervisory Patent Examiner.Art Unit 1657





## UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

In re Patent No. 7123584 :  
Issue Date: October 17, 2006 :  
Application No. 10842842 :DECISION GRANTING PETITION  
Filed: May 11, 2004 :UNDER 37 CFR 1.378(c)  
Attorney Docket No. 1033-IT1033 :

This is a decision on the electronic petition, filed January 5, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 5, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,123,584	2006-10-17	10/842,842	2004-05-11	1033-IT1033

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |   | Fee | Code   |
|---|-----|--------|
| <input checked="" type="radio"/> 3 ½ year |     | (1551) |
| <input type="radio"/> 7 ½ year            |     | (1552) |
| <input type="radio"/> 11 ½ year           |     | (1553) |

### Small Entity

- |                                 | Fee | Code   |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year  |     | (2551) |
| <input type="radio"/> 7 ½ year  |     | (2552) |
| <input type="radio"/> 11 ½ year |     | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jeffrey G. Toler/	Date (YYYY-MM-DD)	2011-01-04
Name	Jeffrey G. Toler	Registration Number	38342
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
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## UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

In re Patent No. 6943351 :  
Issue Date: September 13, 2005 :  
Application No. 10842849 :DECISION GRANTING PETITION  
Filed: May 10, 2004 :UNDER 37 CFR 1.378(c)  
Attorney Docket No. 05884-0309706 :

This is a decision on the electronic petition, filed September 12, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 12, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6943351	2005-09-13	10842849	2004-05-10	

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☒ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Lynn Barringer/		Date (YYYY-MM-DD) 2011-09-12
Name	Lynn Barringer		
Enter Reel and Frame Number		Remove	
Reel Number	024342	Frame Number	0790
Click ADD for additional Reel Number and Frame Number		Add	
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

MCKEE, VOORHEES & SEASE, P.L.C.  
801 GRAND AVENUE  
SUITE 3200  
DES MOINES IA 50309-2721

**MAILED**

NOV 09 2010

In re Application of	:	OFFICE OF PETITIONS
Gold et al.	:	
Application No.: 10/842953	:	DECISION ON
Filing or 371(c) Date: 05/10/2004	:	PETITION
Attorney Docket Number: P09575US02	:	

This is a decision in response to the renewed Petition for Revival of Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed August 25, 2010, and supplemented October 13, 2010 and November 3, 2010.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 3, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Accordingly, the date of abandonment of this application is September 4, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee (filed March 18, 2010), (and the submission required by 37 CFR 1.114, filed November 3, 2010); (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

This application is being referred to Technology Center AU 1644 for processing of the RCE and for appropriate action on the amendment, filed November 3, 2010, in the normal course of business.

/DLW/

Derek L. Woods  
Attorney  
Office of Petitions





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KILPATRICK TOWNSEND &  
STOCKTON LLP  
TWO EMBARCADERO CENTER  
EIGHTH FLOOR  
SAN FRANCISCO CA 94111-3834

**MAILED**

**JAN 31 2012**

**OFFICE OF PETITIONS**

In re Application :  
Sako, et al. :  
Application No. 10/843,005 : PATENT TERM ADJUSTMENT  
Filing or 371(c) Date: May 10, 2004 :  
Dkt. No.: 86203-679468 (002600US) :

This is in response to the application for patent term adjustment pursuant to 37 CFR 1.705(b) filed December 20, 2011.

The request for reconsideration of patent term adjustment is **GRANTED**.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 617 days, not 615 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment mailed October 18, 2011. Applicants contest the reduction of 63 days in connection with the request for continued examination filed December 7, 2009. Applicants assert that the correct reduction is 61 days.

The arguments presented have been carefully reviewed and found convincing. A review of the record reveals that the request for continued examination was filed December 7, 2009 and not December 9, 2009; thus, the correct period of reduction is 61 days and not 63 days.

In view thereof, at the time of allowance, the application was entitled to an overall patent term adjustment of 617 days, as argued.

The \$200.00 patent term adjustment application required per 37 CFR 1.18(e) has been charged to the authorized deposit account.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).



Application No. 10/843,005

Page 2

An Adjusted PAIR Calculation is enclosed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

*/ALESIA M. BROWN/*

Alesia M. Brown  
Attorney Advisor  
Office of Petitions

Enclosure





# Patent Term Adjustments

Best Available Copy



PTA/PTe Information    Patent Term Adjustment    Patent Term Extension

Application Number\*: 10843005

Search

Explanation of PTA Calculation

Explanation of PTE Calculation

## PTA Calculations for Application: 10843005

Application Filing Date	05/10/2004	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	802
A Delays	802	PTO Manual Adjustment	2
B Delays	0	Applicant Delay (APPL)	187
C Delays	0	Total PTA (days)	617

\* - Sorted Column

## File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
154	01/28/2012		P028	Adjustment of PTA Calculation by PTO		61	0
153	01/28/2012		P028	Adjustment of PTA Calculation by PTO	63		0
136	10/18/2011		MN/=	Mail Notice of Allowance			0
135	10/12/2011		OAR	Office Action Review			0
134	10/12/2011		OAR	Office Action Review			0
133	10/12/2011		OAR	Office Action Review			0
132	10/12/2011		IREV	Issue Revision Completed			0
131	10/12/2011		DVER	Document Verification			0
130	10/12/2011		N/=	Notice of Allowance Data Verification Completed			0
129	10/12/2011		DOCK	Case Docketed to Examiner in GAU			0
128	10/10/2011		EX.R	Reasons for Allowance			0
127	10/10/2011		EX.A	Examiner's Amendment Communication			0
126	10/10/2011		CNTA	Allowability Notice			0
125	09/24/2011		FWDX	Date Forwarded to Examiner			0
124	09/22/2011		A...	Response after Non-Final Action			0
123	06/23/2011		ELC_RVW	Electronic Review			0
122	06/23/2011		EML_NTF	Email Notification			0
121	06/23/2011		MCTNF	Mail Non-Final Rejection			0
120	06/20/2011		OAR	Office Action Review			0
118	06/10/2011		CTNF	Non-Final Rejection			0
114	06/08/2011		FWDX	Date Forwarded to Examiner			0
111	06/08/2011		ABN9	Disposal for a RCE / CPA / R129			0
119	06/01/2011		M844	Information Disclosure Statement (IDS) Filed			0
116	06/01/2011		IDSC	Information Disclosure Statement considered			0
115	06/01/2011		M844	Information Disclosure Statement (IDS) Filed			0
113	06/01/2011		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
112	06/01/2011		RCEX	Request for Continued Examination (RCE)			0
110	06/01/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
109	06/01/2011		BRCE	Workflow - Request for RCE - Begin			0
108	03/02/2011		ELC_RVW	Electronic Review			0
105	03/02/2011		EML_NTF	Email Notification			0
104	03/02/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
103	02/28/2011		CTFR	Final Rejection			0
117	02/18/2011		IDSC	Information Disclosure Statement considered			0
107	02/18/2011		RCAP	Reference capture on IDS			0
106	02/18/2011		M844	Information Disclosure Statement (IDS) Filed			0
102	02/18/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
101	01/13/2011		IDSC	Information Disclosure Statement considered			0
100	01/13/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
99	01/13/2011		M844	Information Disclosure Statement (IDS) Filed			0
98	12/21/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
97	12/07/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
96	11/21/2010		FWDX	Date Forwarded to Examiner			0
93	11/21/2010		ABN9	Disposal for a RCE / CPA / R129			0
95	11/19/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
94	11/19/2010	10/20/2010	RCEX	Request for Continued Examination (RCE)		30	90
92	11/19/2010		XT/G	Request for Extension of Time - Granted			0
91	11/19/2010		BRCE	Workflow - Request for RCE - Begin			0
90	07/20/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
89	07/19/2010		CTFR	Final Rejection			0
86	06/04/2010		FWDX	Date Forwarded to Examiner			0
88	06/03/2010		IDSC	Information Disclosure Statement considered			0
87	06/03/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
85	06/03/2010	05/03/2010	A...	Response after Non-Final Action		31	80
84	06/03/2010		XT/G	Request for Extension of Time - Granted			0
83	06/03/2010		M844	Information Disclosure Statement (IDS) Filed			0
82	05/12/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
81	04/29/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
80	02/03/2010		MCTNF	Mail Non-Final Rejection			0
79	02/01/2010		CTNF	Non-Final Rejection			0
78	12/10/2009		FWDX	Date Forwarded to Examiner			0
75	12/10/2009		ABN9	Disposal for a RCE / CPA / R129			0
76	12/09/2009	10/07/2009	RCEX	Request for Continued Examination (RCE)		63	64
74	12/09/2009		XT/G	Request for Extension of Time - Granted			0



72	11/23/2009	MCTAV	Mail Advisory Action (PTOL - 303)	0
71	11/20/2009	CTAV	Advisory Action (PTOL-303)	0
70	11/16/2009	MPTDE	Mail-Petition Decision - Denied	0
69	11/13/2009	PTDE	Petition Decision - Denied	0
68	11/13/2009	FWDX	Date Forwarded to Examiner	0
67	11/06/2009	A.NE	Amendment after Final Rejection	0
66	11/06/2009	XT/G	Request for Extension of Time - Granted	0
65	09/08/2009	PET.	Petition Entered	0
64	07/07/2009	MCTFR	Mail Final Rejection (PTOL - 326)	0
63	07/06/2009	CTFR	Final Rejection	0
61	04/21/2009	FWDX	Date Forwarded to Examiner	0
59	04/21/2009	FWDX	Date Forwarded to Examiner	0
57	04/21/2009	ABN9	Disposal for a RCE / CPA / R129	0
60	04/09/2009	AMSB	Amendment Submitted/Entered with Filing of CPA/RCE	0
58	04/09/2009	03/16/2009 RCEX	Request for Continued Examination (RCE)	24 54
56	04/09/2009	XT/G	Request for Extension of Time - Granted	0
55	04/09/2009	BRCE	Workflow - Request for RCE - Begin	0
54	12/16/2008	MCTFR	Mail Final Rejection (PTOL - 326)	0
53	12/16/2008	CTFR	Final Rejection	0
51	10/17/2008	P574	PARALEGAL OR ELECTRONIC TERMINAL DISCLAIMER APPROVED	0
46	09/27/2008	FWDX	Date Forwarded to Examiner	0
52	08/29/2008	IDSC	Information Disclosure Statement considered	0
50	08/29/2008	08/29/2008 DIST	Terminal Disclaimer Filed	45
49	08/29/2008	RCAP	Reference capture on IDS	0
48	08/29/2008	M844	Information Disclosure Statement (IDS) Filed	0
47	08/29/2008	DIST	Terminal Disclaimer Filed	0
45	08/29/2008	A...	Response after Non-Final Action	0
44	08/29/2008	XT/G	Request for Extension of Time - Granted	0
43	08/29/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
42	05/29/2008	04/30/2008 MCTNF	Mail Non-Final Rejection	29 31
41	05/27/2008	CTNF	Non-Final Rejection	0
34	03/15/2008	DOCK	Case Docketed to Examiner in GAU	0
32	01/25/2008	FWDX	Date Forwarded to Examiner	0
33	12/31/2007	RQPR	Request for Foreign Priority (Priority Papers May Be Included)	0
31	12/31/2007	11/22/2007 A...	Response after Non-Final Action	39 25
30	12/31/2007	XT/G	Request for Extension of Time - Granted	0
29	12/31/2007	MEXIN	Mail Examiner Interview Summary (PTOL - 413)	0
28	12/17/2007	EXIN	Examiner Interview Summary Record (PTOL - 413)	0
27	11/27/2007	DOCK	Case Docketed to Examiner in GAU	0
26	10/09/2007	DOCK	Case Docketed to Examiner in GAU	0
25	08/22/2007	07/10/2005 MCTNF	Mail Non-Final Rejection	773 0.5
24	08/16/2007	CTNF	Non-Final Rejection	0
21	03/23/2007	DOCK	Case Docketed to Examiner in GAU	0
20	05/02/2006	DOCK	Case Docketed to Examiner in GAU	0
23	07/14/2005	IDSC	Information Disclosure Statement considered	0
19.7	07/14/2005	M844	Information Disclosure Statement (IDS) Filed	0
19	07/14/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
18	11/08/2004	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
17	11/08/2004	DOCK	Case Docketed to Examiner in GAU	0
15	09/02/2004	WROIPE	Application Return from OIPE	0
14	09/02/2004	COMP	Application Is Now Complete	0
13	09/02/2004	ROIPE	Application Return TO OIPE	0
12	09/02/2004	WROIPE	Application Return from OIPE	0
11	09/02/2004	ROIPE	Application Return TO OIPE	0
10	09/02/2004	OIPE	Application Dispatched from OIPE	0
9	09/02/2004	COMP	Application Is Now Complete	0
8	08/10/2004	ADDFLFEE	Additional Application Filing Fees	0
7	08/10/2004	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
6	07/13/2004	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
5	06/24/2004	L128	Cleared by L&R (LARS)	0
4	06/14/2004	L198	Referred to Level 2 (LARS) by OIPE CSR	0
3	06/14/2004	CLSS	CASE CLASSIFIED BY OIPE	0
2	05/21/2004	SCAN	IFW Scan & PACR Auto Security Review	0
16	05/10/2004	RQPR	Request for Foreign Priority (Priority Papers May Be Included)	0
1	05/10/2004	IEXX	Initial Exam Team nn	0
0.5	05/10/2004	EFILE	Filing date	0

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In re Patent No. 7037937  
Issue Date: May 2, 2006  
Application No. 10843008  
Filed: May 11, 2004  
Attorney Docket No. 12152.0112USD1

:

:DECISION GRANTING PETITION  
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed September 22, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 22, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,037,937	2006-05-02	10/843,008	2004-05-11	379887

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                                 | Fee | Code   |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year  |     | (1551) |
| <input type="radio"/> 7 ½ year  |     | (1552) |
| <input type="radio"/> 11 ½ year |     | (1553) |

### Small Entity

- |   | Fee | Code   |
|---|-----|--------|
| <input checked="" type="radio"/> 3 ½ year |     | (2551) |
| <input type="radio"/> 7 ½ year            |     | (2552) |
| <input type="radio"/> 11 ½ year           |     | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☒ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Fatih M. Uckun/		Date (YYYY-MM-DD) 2011-09-19
Name	Fatih M. Uckun		
Enter Reel and Frame Number		Remove	
Reel Number	022773	Frame Number	0485
Click ADD for additional Reel Number and Frame Number		Add	
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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TOBIN, CARBERRY, O'MALLEY, RILEY, SELINGER, P.C.  
43 BROAD STREET  
PO BOX 58  
NEW LONDON, CT 06320

**MAILED**

**OCT 01 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,086,749	:	
Issue Date: August 8, 2006	:	
Application No. 10/843,088	:	NOTICE
Filed: May 10, 2004	:	
Attorney Docket No. 4732.100024	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/  
April M. Wise  
Petitions Examiner  
Office of Petitions





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P.O. BOX 980  
VALLEY FORGE PA 19482

**MAILED**  
**FEB 01 2011**  
**OFFICE OF PETITIONS**

In re Patent No. 7,142,375 :  
Issue Date: November 28, 2006 :  
Application No. 10/843,168 :  
Filed: May 10, 2004 :  
Attorney Docket No. 23238-004001 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/  
April M. Wise  
Petitions Examiner  
Office of Petitions





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MARSHALL, GERSTEIN & BORUN LLP  
233 SOUTH WACKER DRIVE  
6300 WILLIS TOWER  
CHICAGO IL 60606-6357

**MAILED**  
**AUG 22 2011**  
**OFFICE OF PETITIONS**

In re Patent No. 7,666,613	:	
Issue Date: Feb. 23, 2010	:	DECISION ON PETITIONS
Application Number: 10/843,299	:	UNDER 37 CFR § 1.78(a)(3)
Filing Date: May 12, 2004	:	and
Attorney Docket Number: 27656/43813	:	UNDER 37 CFR § 1.55(c)

This is a decision on the petition, filed February 24, 2011, which is being treated as petitions under 37 CFR 1.78(a)(3) and 1.55(c), seeking to add a claim for priority under 35 U.S.C. §§ 356(c) and 119(a)-(d) to the international and foreign applications named in the concurrently filed Application Data Sheet, by way of a certificate of correction.

The petition is **granted**.

**PETITION UNDER 37 CFR 1.78(a)(3)**

The instant application was filed May 12, 2004. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional or international application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 356(c) and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.



As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 356(c) to the above-noted, prior-filed international application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

**The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met.**

The rule at 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR § 1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

#### **PETITION UNDER 37 CFR 1.55(c)**

This issued patent was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

- (1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
- (2) The claim under 35 U.S.C. 119(a)-(d) or 365(a) and this section to the prior foreign application, unless previously submitted;
- (3) the surcharge as set forth in 37 CFR 1.17(t);
- (4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
- (5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.



Application 10/843,299, which matured into the subject patent, was filed on May 12, 2004, and is a continuation-in-part of Application No. 09/403,724, which is a national stage entry under 35 USC 371 of international Application No. PCT/IB98/00625, filed on April 24, 1998, which is within 12 months of April 26, 1997, the date the foreign application was filed. On February 24, 2011, a draft Certificate of Correction was provided which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of \$1,410.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

Receipt of the \$1,410 surcharge, as well as the \$100 certificate of correction fee, is acknowledged.

**The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met.**

37 CFR § 1.55(c) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.55(a)(1) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR § 1.55(c). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

As a certificate of correction containing the correct claims for benefit and foreign priority was issued on June 21, 2011, no further action is required.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.



Bryan Lin  
PCT Legal Examiner  
Office of PCT Legal Administration





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OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD  
500 WEST MADISON STREET  
SUITE 3400  
CHICAGO IL 60661

In re Application	:
Alexander G. McInnis et al.	:
Application No. 10/843,657	: DECISION ON APPLICATION
Filed: May 11, 2004	: FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 17408US02	:

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705) filed June 1, 2011. Applicant requests that the determination of patent term adjustment be corrected from 514 days to 1835 days.

The application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED**.

On March 2, 2011 the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 514 days. On June 1, 2011, applicant timely submitted the instant application for patent term adjustment<sup>1</sup>. Applicant maintains an additional period of adjustment should be entered for a total of 1863 days under 37 C.F.R. § 1.703(a). Applicant argues that the Office mailed a first Office action on January 4, 2007 which was withdrawn and vacated in a Notice mailed January 18, 2007, thus, based on the foregoing, the non-final Office Action mailed on January 4, 2007 does not comprise a valid first Office Action on the merits. The first valid Office Action on the merits was actually mailed on August 17, 2010 and as a result, the Office delay should be calculated from July 11, 2005 to August 17, 2010.

Applicant's argument has been considered, but not found persuasive. An Office Action was mailed on January 4, 2007, however, the Notice mailed January 18, 2007 withdrawing the first action does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(1) on January 4, 2007. Accordingly, entry

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<sup>1</sup> PALM records indicate that the issue fee was also paid on June 1, 2011.



of a period of adjustment of 1863 days for Office delay in mailing a further notification is not warranted.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial 'P'.

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions



<b>Doc Code: PET.AUTO</b> <b>Document Description: Petition automatically granted by EFS-Web</b>		PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	<b>REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS</b>	
Application Number	10843682	
Filing Date	10-May-2004	
First Named Inventor	Vahid Saadat	
Art Unit	3734	
Examiner Name	ERIN COLELLO	
Attorney Docket Number	USGINZ01300	
Title	Apparatus and methods for transgastric tissue manipulation	
<input checked="" type="radio"/> Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number:		40518 _____
The reason(s) for this request are those described in 37 CFR: 10.40(b)(4)		
Certifications		
<input checked="" type="checkbox"/> I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment		
<input checked="" type="checkbox"/> I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled		
<input checked="" type="checkbox"/> I/We have notified the client of any responses that may be due and the time frame within which the client must respond		
Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:		
Name	USGI Medical, Inc.	
Address	1140 Calle Cordillera	
City	San Clemente	
State	CA	
Postal Code	92673	
Country	US	



I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Johney U. Han/
Name	Johney U. Han
Registration Number	45565





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[www.uspto.gov](http://www.uspto.gov)

Decision Date : October 7, 2011

In re Application of :

Vahid Saadat

Application No : 10843682

Filed : 10-May-2004

Attorney Docket No : USGINZ01300

DECISION ON REQUEST TO WITHDRAW AS  
ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed October 7, 2011

The request is **APPROVED**.

The request was signed by John U. Han (registration no. 45565 ) on behalf of all attorneys/agents associated with Customer Number 40518 . All attorneys/agents associated with Customer Number 40518 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name USGI Medical, Inc.  
Name2  
Address 1 1140 Calle Cordillera  
Address 2  
City San Clemente  
State CA  
Postal Code 92673  
Country US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions





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MCKEE, VOORHEES & SEASE, P.L.C.  
801 GRAND AVENUE  
SUITE 3200  
DES MOINES IA 50309-2721

**MAILED**

**NOV 09 2010**

**OFFICE OF PETITIONS**

In re Application of	:	
Gold et al.	:	
Application No.: 10/843703	:	DECISION ON
Filing or 371(c) Date: 05/10/2004	:	PETITION
Attorney Docket Number: 30795-701.302	:	

This is a decision in response to the renewed Petition for Revival of Application Abandoned Unintentionally Under 37 CFR 1.137(b), filed August 25, 2010, and supplemented October 13, 2010.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment, mailed May 28, 2008. The Notice set a one (1) month or 30 day period for reply. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on June 29, 2008. A Notice of Abandonment was mailed January 5, 2009.

Applicant files the present petition and response to the Office communication. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it includes (1) the reply, filed March 18, 2010; (2) the petition fee, filed March 18, 2010; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

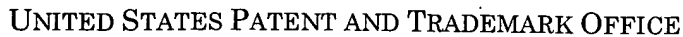
This application is being forwarded to Technology Center Art Unit 1644 for processing of the response in due course.

Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods  
Attorney  
Office of Petitions





Patent No. : 7,745,388 B2  
Ser. No. : 10/843,731  
Inventor(s) : Mochly-Rosen et al.  
Issued : Jun. 29, 2010  
Title : PEPTIDES FOR ACTIVATION AND INHIBITION OF  $\delta$  PKC  
Docket No. : 58600-8208.US01  
Re: Request for Certificate of Correction

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing *incorrect or erroneous* assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (see *Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

A. the processing fee set forth in 37 CFR 1. 17(i) (currently \$130);

B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and

C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

**By mail:**

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401 Dulany Street  
Alexandria, VA 22314

By fax: (703) 872-9306  
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

**Ennis Young**  
For Mary Diggs  
Decisions & Certificates  
of Correction Branch  
(571) **272-3435** or (703) 756-1814





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**APR 27 2011**  
**OFFICE OF PETITIONS**

King & Spalding LLP  
P.O. Box 889  
Belmont CA 94002-0889

In re Patent No. 7,745,388	:	
Issue Date: June 29, 2010	:	
Application No. 10/843,731	:	DECISION ON PETITION
Filed: May 12, 2004	:	
Attorney Docket No. 58600-8208.US01	:	

This is a decision on the Request To Correct Assignee Filed Under 37 C.F.R. §3.81(b), filed December 21, 2010, which is being treated as Petition Under 37 CFR §3.81(b), to identify the correct assignee's name and residence. A completed Certificate of Correction Form (PTO/SB/44) was previously submitted.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignee's name and residence on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to correct assignee's name and residence to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

*After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.



U.S. Patent No. 7,745,388  
Application No. 10/843,731  
Decision on Petition under 37 CFR §3.81


Page 2

The requisite \$100.00 fee (Fee Code 1811), as set forth under 37 CFR §1.20(a), and the requisite \$130.00 processing fee (Fee Code 1464), as set forth under 37 CFR §1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB\44) previously submitted.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,745,388.

A handwritten signature in cursive script, reading "Cheryl Gibson-Baylor".

Cheryl Gibson-Baylor  
Petitions Examiner  
Office of Petitions



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7128298	2006-10-31	10843755	2004-05-12	

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/ers/	Date (YYYY-MM-DD)	2010-12-10
Name	E. Randall Smith	Registration Number	38307
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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United States Patent and Trademark Office  
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Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

In re Patent No. 7128298 :  
Issue Date: October 31, 2006 :  
Application No. 10843755 :DECISION GRANTING PETITION  
Filed: May 12, 2004 :UNDER 37 CFR 1.378(c)  
Attorney Docket No. 04-02/03 :

This is a decision on the electronic petition, filed December 13, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 13, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.





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GEN PROBE INCORPORATED  
10210 GENETIC CENTER DRIVE  
Mail Stop #1 / Patent Dept.  
SAN DIEGO CA 92121

**MAILED**

**AUG 02 2010**

In re Application of	:	<b>OFFICE OF PETITIONS</b>
Hogan et al.	:	
Application No. 10/843,799	:	
Filed: May 11, 2004	:	<b>ON APPLICATION FOR</b>
Attorney Docket No. GP148-02.UT	:	<b>PATENT TERM ADJUSTMENT</b>
Title: METHOD AND KIT FOR	:	
IDENTIFYING ANTIBIOTIC-	:	
RESISTANT MICROORGANISMS	:	

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)" filed May 3, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is four hundred forty (440) days, not two hundred ninety-one (291) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under §



1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee<sup>1</sup>.

---

<sup>1</sup> For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

A handwritten signature in black ink, appearing to read 'Anthony Knight', is written over the printed name.

Anthony Knight  
Director  
Office of Petitions





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ROHM AND HAAS COMPANY  
PATENT DEPARTMENT  
100 INDEPENDENCE MALL WEST  
PHILADELPHIA, PA 19106-2399

**MAILED**  
**MAY 03 2011**  
**OFFICE OF PETITIONS**

In re Application of  
**Mark A. KESSELMAYER**  
Application No. 10/843,889  
Filed: May 12, 2004  
Attorney Docket No. **A01520**

:  
:  
: DECISION ON PETITION  
: UNDER 37 CFR 1.137(b)  
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 17, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 10, 2011, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed December 10, 2010. Accordingly, the date of abandonment of this application is March 11, 2011.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1510, the publication fee of \$300, (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

The drawings have been made of record in the above application.



There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Office of Data Management for processing into a patent.

A handwritten signature in black ink, appearing to read 'Thurman K. Page', with a stylized, flowing script.

Thurman K. Page  
Petitions Examiner  
Office of Petitions



**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address : COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/843,965	11 May, 2004	FINCKE ET AL.	B-026D1

TraskBritt / Battelle Energy Alliance, LLC PO Box 2550 Salt Lake City, UT 84110		<b>EXAMINER</b>	
		TU B. HOANG	
		<b>ART UNIT</b>	<b>PAPER</b>
		3742	20120417

**DATE MAILED:**

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

certification of correction on 8/10/2011 has been approved. See attachment.

/TU B HOANG/  
Supervisory Patent Examiner, Art Unit 3742



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**Paper No.:**20120417

**DATE** : August 10, 2011

**TO SPE OF** : ART UNIT 3742

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7576296B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

**Certificates of Correction Branch - ST (South Tower) 9A22**

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance**

**Certificates of Correction Branch**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:**

/TU B HOANG/  
Supervisory Patent Examiner.Art Unit 3742



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

DATE : 6/22/2011  
 TO SPE OF : ART UNIT 243  
 SUBJECT : Request for Certificate of Correction for Appl. No.: 10/843971 Patent No.: 7702964 B2  
 CofC mailroom date: 6/13/2011

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)  
 Randolph Square – 9D10-A  
 Palm Location 7580**

Note: \_\_\_\_\_  
 \_\_\_\_\_

*Virginia Tolbert*

**Certificates of Correction Branch  
 (571) 272-0460**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:** \_\_\_\_\_

Please replace statement w/ :  
Column 10, Line 26, Claim 2 "the second data"  
should be -- the second trace data--

*Emerson Puente*  
 SPE

Art Unit





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**JACK OISHER  
200 HIGH POINT DRIVE  
SUITE PH2  
HARTSDALE NY 10530**

**MAILED**

**SEP 27 2010**

**OFFICE OF PETITIONS**

In re Application of  
Craig M. KENNEDY et al.  
Application No. 10/843,972  
Patent No. 6,976,855  
Filed: May 13, 2004  
Attorney Docket No. **API-864-CIP**

**NOTICE UNDER 37 CFR. 1.28(c)**

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

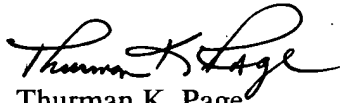
Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.



Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

A handwritten signature in black ink, appearing to read "Thurman K. Page". The signature is fluid and cursive, with the first name "Thurman" and last name "Page" clearly distinguishable.

Thurman K. Page  
Petitions Examiner  
Office of Petitions

cc: **GAZDZINSKI & ASSOCIATES, PC**  
**16644 WEST BERNARDO DRIVE**  
**SUITE 201**  
**SAN DIEGO, CA 92127**





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Paper No.

Mark A. Litman & Associates, P.A.  
York Business Center, Ste. 205  
3209 West 76th Street  
Edina MN 55435

**MAILED**

**APR 04 2011**

**OFFICE OF PETITIONS**

In re Application of :  
Davison :  
Application No. 10/844,174 : DECISION ON PETITION  
Filed: May 12, 2004 : PURSUANT TO  
Attorney Docket No.: 495.002US2 : 37 C.F.R. § 1.137(A)  
Title: EXPLOSIVE DEVICE :

This is a decision on the petition filed on February 18, 2011, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

This petition is **GRANTED**.

The above-identified application became abandoned due to the November 26, 2010 decision of the Board for Patent Appeals and Interferences which upheld-in-part the Examiner's rejections. Accordingly, the above-identified application became abandoned on January 27, 2011, the expiration of the period for seeking judicial review of this decision.<sup>1</sup> A Notice of Abandonment was mailed on February 14, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(1);
- (3) A showing to the Commissioner that the entire

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<sup>1</sup> See MPEP § 1216.



- delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;
- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee and a statement of facts. Requirements (1) - (3) of Rule 1.137(a) have been satisfied. The fourth requirement is not applicable, as a terminal disclaimer is not required.<sup>2</sup>

Regarding the third requirement, Petitioner has argued that the decision of the Board for Patent Appeals and Interferences indicated that claims 21-32 "were indicated as allowable by the USPTO Board of Patent Appeals..."

Petitioner's argument has been considered, and has been deemed to be persuasive. The final Office action of July 7, 2008 indicated that claims 7-32 were pending, and claims 7-32 were rejected under both 35 U.S.C. § 112, first paragraph and 35 U.S.C. § 102(b). The decision of the Board for Patent Appeals and Interferences reversed the rejection of claims 7-32 under 35 U.S.C. § 112, first paragraph as well as the rejection of claims 21-32 under 35 U.S.C. § 102(b). The decision affirmed the rejection of claims 7-20 under 35 U.S.C. § 102(b). As such, **claims 21-32 stand allowed.**

MPEP § 1214.06(II)(B) indicates that when claims stand allowed, once jurisdiction of an application is returned to the Examiner after a decision is issued by the Board of Patent Appeals and Interferences;

"[t]he appellant is not required to file a reply. The examiner issues the application or *ex parte* reexamination certificate on the claims which stand allowed."

It follows that the application should be forwarded to the Technology Center, so that this application may issue as a patent due to the fact that claims 21-32 stand allowed.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing.

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<sup>2</sup> See Rule 1.137(d).



Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.<sup>3</sup> All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/  
Paul Shanoski  
Senior Attorney  
Office of Petitions

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<sup>3</sup> Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).





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MORRISON & FOERSTER LLP  
755 PAGE MILL RD  
PALO ALTO, CA 94304-1018

**MAILED**

**DEC 15 2010**

In re Application of  
D. Bruce Modesitt  
Application No. 10/844,247  
Filed: May 12, 2004  
Attorney Docket No. 602572000100

**OFFICE OF PETITIONS**

**DECISION ON PETITION  
TO WITHDRAW  
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 14, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Mika Mayer on behalf of all attorneys of record who are associated with customer No. 25226. All attorneys/agents associated with the Customer Number 25226 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/  
April M. Wise  
Petitions Examiner  
Office of Petitions

cc: ARSTASIS, INC.  
1021 HOWARD AVENUE  
SUITE C  
SAN CARLOS, CA 94070





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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/844,247	05/12/2004	D. Bruce Modesitt	602572000100

**CONFIRMATION NO. 5997**

## POWER OF ATTORNEY NOTICE



Date Mailed: 12/08/2010

25226  
MORRISON & FOERSTER LLP  
755 PAGE MILL RD  
PALO ALTO, CA 94304-1018

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/14/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/844,369	05/13/2004	G. Alan Steinhauer	STEIN-001	6479
21884 7590 03/28/2012 WELSH FLAXMAN & GITLER LLC 2000 DUKE STREET, SUITE 100 ALEXANDRIA, VA 22314			EXAMINER LEFF, STEVEN N	
			ART UNIT 1782	PAPER NUMBER
			MAIL DATE 03/28/2012	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE  
BOARD OF PATENT APPEALS AND INTERFERENCES

---

*Ex parte* G. ALAN STEINHAUER

---

Appeal 2010-004866  
Application 10/844,369  
Technology Center 1700

---

DECISION ON PETITION

Before DALE M. SHAW, *Division 2 Support Administrator*.

This is a decision on the “Petition in Accordance with MPEP § 710.06, filed February 2, 2012. (Petition). The Petition “respectfully requests the Decision on Appeal be reissued and the period for response be restarted.” Petition 1. The Petition will be treated as a petition to the Chief Administrative Patent Judge under 37 C.F.R. § 41.3. *See* 75 Fed. Reg. 15,690 (Mar. 30, 2010) for authority of Chief Administrative Patent Judge.

FINDINGS

1. On March 18, 2009, Appellant filed a Notice of Appeal.
2. On May 18, 2009, Appellant filed an Appeal Brief.



Appeal 2010-004866  
Application 10/844,369

3. On August 31, 2009, the Examiner mailed an Examiner's Answer to Appellant.
4. On March 23, 2010, an Appeal Docketing Notice was mailed to Appellant. The Docketing Notice gave the appeal number 2010-004866.
5. On September 30, 2011, the Board mailed a decision to Appellant affirming the Examiner in part.
6. On February 2, 2012, Appellant filed his Petition.
7. Appellant's counsel filed with the Petition, the docketing sheets for Welsh Flaxman & Gitler for the time period of September 30, 2011 through November 30, 2011.
8. According to the Declaration of John L. Welsh, Appellant's counsel did not receive the Board's Decision mailed September 30, 2011. (Petition 4-5).

#### DISCUSSION

In view of the view of the Declaration and docket sheets supplied by Appellant's counsel, the Petition is granted.

#### DECISION

In view of the foregoing, the Petition is GRANTED. The Decision rendered September 30, 2011, is attached to this Decision on Petition. Appellant has two months from the date of this Decision on Petition to file their response to the Board's Decision mailed September 30, 2011.





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/844,369	05/13/2004	G. Alan Steinhauer	STEIN-001	6479
21884 7590 09/30/2011 WELSH FLAXMAN & GITLER LLC 2000 DUKE STREET, SUITE 100 ALEXANDRIA, VA 22314			EXAMINER LEFF, STEVEN N	
			ART UNIT 1782	PAPER NUMBER
			MAIL DATE 09/30/2011	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* G. ALAN STEINHAUER

---

Appeal 2010-004866  
Application 10/844,369  
Technology Center 1700

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Before CHUNG K. PAK, CHARLES F. WARREN, and PETER F. KRATZ,  
*Administrative Patent Judges.*

KRATZ, *Administrative Patent Judge.*

DECISION ON APPEAL

This is a decision on an appeal under 35 U.S.C. § 134 from the Examiner's final rejection of claims 1-14. We have jurisdiction pursuant to 35 U.S.C. § 6.



Appellant's claimed invention is directed to a method of filling an edible shell using a template having a support shelf for supporting filling ingredients prior to placement in the shell. The support shelf is positioned in a recess of the template, which recess is dimensioned and shaped to receive the shell. At least two filling ingredients are layered, the first layered on the shelf and the second layered on the first filling ingredient. Then, the layered filling ingredients are inserted within the shell, and the support plate is removed from the template and edible shell, which allows the filling to fall within the shell. Also the claimed invention is directed to a filled edible taco shell, which is prepared by using the aforementioned template.

Claims 1 and 8 are illustrative and reproduced below:

1. A method for filling an edible shell using a template for supporting filling ingredients prior to placement within the edible shell, the template includes a recess shaped and dimensioned for receiving an open end of the edible shell and the template also includes a support shelf transversely positioned within the recess, the method comprising the following steps:

gathering a first filling ingredient for the edible shell and layering the first filling ingredient along the support shelf in a first horizontal plane;

gathering a second filling ingredient for the edible shell and layering the second filling ingredient on top of the first filling ingredient along a second horizontal plane; and inserting the layered first and second filling ingredients within the edible shell;

removing the support shelf from the template and edible shell allowing the first filling ingredient and the second filling ingredient to fall within the edible shell.



Appeal 2010-004866  
Application 10/844,369

8. A filled edible taco shell prepared in accordance with the method for filling using a template for supporting filling ingredients prior to placement within the edible shell, the taco shell including a first shell wall linked to a second shell wall to form the taco shell with a closed end and an open end, and the template including a recess shaped and dimensioned for receiving the open end of the edible shell and the template also including a support shelf transversely positioned within the recess, the method comprising the following steps:

gathering a first filling ingredient for the edible shell and layering the first filling ingredient along the support shelf in a first horizontal plane;

gathering a second filling ingredient for the edible shell and layering the second filling ingredient on top of the first filling ingredient along a second horizontal plane; and

inserting the layered first and second filling ingredients within the edible shell;

removing the support shelf from the template allowing the first filling ingredient and the second filling ingredient to fall within the edible shell.

The Examiner relies on the following prior art references as evidence in rejecting the appealed claims:

Bemis	1,807,189	May 26, 1931
Puskar	4,729,589	Mar. 8, 1988
Wells	6,602,528 B1	Aug. 5, 2003

Claims 1-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Puskar, Bemis, and Wells.



We reverse the stated rejection with respect to method claims 1-7 for reasons set forth in the Appeal Brief, as further set forth below. However, we affirm the Examiner's obviousness rejection as to the product claims 8-14.

#### Claims 1-7

It is well settled that the burden of establishing a *prima facie* case of non-patentability resides with the Examiner. *See In re Piasecki*, 745 F.2d 1468, 1472 (Fed. Cir. 1984). Here, the Examiner's reliance on a combination of Puskar, Bemis and Wells to underpin the stated obviousness rejection as to the method claims is not well-founded.

We need only address independent claim 1. As a reading of claim 1 reveals, the claimed filling method requires the use of a template device wherein the template includes a removable support shelf that is removed from the template as part of the edible shell filling process.

Puskar is directed to device useful for inserting filling into a taco shell including a base portion, and a top portion including an ejector slidably mounted on the base portion (*see* Figs. 1-5). The base portion includes a scoop 24 having a top side for holding scooped filling. The device is used for scooping filling from a bowl, with the curvature of the ejector portion forming the scooped filling into a desired shape. Then, the scoop is placed inside a taco shell and the ejector is employed to push filling into the bottom of the shell. Bemis is generally directed to a sandwich-type food product made with buns and a method for making same. Bemis discloses a bun slitting device 11 that does not incorporate removable parts.



Wells discloses a food packaging device for multi-layered food items, such as a sandwich (col. 2, l. 35 –col. 3, l. 25; col. 4, ll. 8-12). The device includes removable spacers including separating sheets 12 (col. 4, ll. 20-48).

The Examiner contends that the relative movement of the plunger and ejector portion 46 of the device of Puskar relative to the shelf portion of scoop 24 provides for the claimed shelf removal from a template during the taco filling process (Ans. 4-5). However, we agree with Appellants that Puskar's device does not work by removing the shelf portion of the scoop from a template portion of the device during the taco filling process, as required by the method of claim 1. In this regard, the claimed template includes a recess shaped and dimensioned for receiving the shell and a support shelf transversely positioned within the recess.

The Examiner has not persuasively explained how the ejector portion of Puskar corresponds to the claimed template that includes such a recess. Thus, the Examiner has not articulated how the device of Puskar would operate during the shell filling process in a manner that corresponds to the required steps of claim 1. Nor has the Examiner furnished an apparent reason to combine the disparate container apparatus of Wells with Puskar and Bemis in a manner that would have resulted in a modification of Puskar's ejection device and filling method such that it would correspond with the claim 1 method and involve the removal of a shelf from a recess-containing template portion of the device of Puskar during the filling process (Ans. 7-8). In this regard, we agree with Appellants that the Examiner's argument that Puskar alone or in combination with Wells would have suggested the claimed filling method including shelf removal from a recess-



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Application 10/844,369

bearing template appears to be premised on impermissible hindsight reasoning (Br. 9, 10, 12, and 13).

On this record, we reverse the Examiner's obviousness rejection as to method claims 1-7.

Claims 8-14

Our disposition of the Examiner's rejection as to product claims 8-14 is another matter. As Appellants generally argue the appealed claims together as a group, we select claim 8 as representative of the product claims. We note that claim 8 is in product-by process format. In this regard, patentability is determined by the product itself, and does not depend on the method of production. *In re Thorpe*, 777 F.2d 695, 697 (Fed. Cir. 1985).

As explained by the Examiner, it would have been obvious to one of ordinary skill in the art to fill the taco of Puskar with multiple conventional ingredients and, in so doing, provide for the formation of a taco having more than one layer of ingredients in a manner as required by the product of claim 8 (Ans. 13-14). As explained above, representative product claim 8 is not required to be made by the recited method steps including the use of the recited template and removable support shelf. One of ordinary skill in the art would have obviously been led to modify the method of Puskar by adding additional layers of conventional food ingredients to the taco of Puskar, even if such were layered by hand, in order to yield a more appealing food product (Ans. 11-14). After all, a conclusion of obviousness may be made from common knowledge and common sense of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference. *See In re Bozek*, 416 F.2d 1385, 1390 (CCPA 1969). Moreover,



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it is not necessary that suggestion or motivation be found within the four corners of the reference(s) themselves. "The obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation, or by overemphasis on the importance of . . . the explicit content of issued patents." *KSR Int'l. Co. v. Teleflex Inc.*, 550 U.S. 398, 419. "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR*, 550 U.S. at 416. The question to be asked is "whether the improvement is more than the predictable use of prior art elements according to their established functions." *KSR*, 550 U.S. at 417.

On this record, we sustain the Examiner's obviousness rejection as to product claims 8-14.

#### CONCLUSION/ORDER

The Examiner's decision to reject claims 1-7 under 35 U.S.C. § 103(a) as being unpatentable over Puskar, Bemis, and Wells is reversed. The Examiner's decision to reject claims 8-14 under 35 U.S.C. § 103(a) as being unpatentable over Puskar, Bemis, and Wells is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

#### AFFIRMED-IN-PART

kmm



**CERTIFICATION AND REQUEST  
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable): 10/844,375	Patent Number (if applicable):
First Named Inventor: MASAKI SHIBA	Title of Invention: AUTOMATIC ANALYZER

**APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.**

1. FOR PATENT APPLICATIONS AND REEXAMINATION PROCEEDINGS PENDING IN THE USPTO AS OF MARCH 11, 2011, IN WHICH A COMMUNICATION FROM THE USPTO IS SOUGHT TO BE REMAILED:
  - a. One or more inventors, an assignee, or a correspondence address (for the application/proceeding) is in an area of Japan affected by the earthquake and/or tsunami of March 11, 2011.
  - b. A reply or response to an Office action (final, non-final, or other), a notice of allowance, or other Office notice (hereinafter collectively referred to as "Office communication") is outstanding on March 11, 2011.
  - c. The statutory or non-statutory time period set for response has not yet expired.
  - d. Withdrawal and reissuance of the Office communication is requested.
  - e. It is acknowledged that if this request is not made within sufficient time so that withdrawal and reissuance of the Office communication occur prior to expiration of the statutory or non-statutory time period (as permitted to be extended under 37 CFR 1.136(a), or as extended under 37 CFR 1.550(c) or 1.956), this request may not be granted.
  - f. The need for the reissuance of the Office communication was due to the effects of the earthquake and/or tsunami of March 11, 2011.
  - g. This request is being sent via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
2. FOR PATENTEES WHO WERE UNABLE TO TIMELY PAY A PATENT MAINTENANCE FEE DURING THE SIX-MONTH GRACE PERIOD FOLLOWING THE WINDOW TO PAY THE MAINTENANCE FEE:
  - a. The original window of time to pay the maintenance fee without the surcharge required by 37 CFR 1.20(h) expired on or after March 11, 2011.
  - b. The delay in paying the fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
  - c. The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(h) for paying a maintenance fee during the six-month grace period following the window to pay the maintenance fee.
  - d. This request and payment of the maintenance fee during the six-month grace period following the window to pay the maintenance fee is being mailed to: Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, VA 22314; or being transmitted via facsimile to: 571-273-6500.



**CERTIFICATION AND REQUEST  
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 2 of 2)

3. FOR PATENTEES WHO NEED TO FILE A PETITION TO ACCEPT A DELAYED MAINTENANCE FEE PAYMENT UNDER 37 CFR 1.378(c):
- The maintenance fee payment was required to have been paid after March 10, 2011.
  - A petition under 37 CFR 1.378(c) (using USPTO form PTO/SB/66 – Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c))) is being promptly filed accompanied by the applicable maintenance fee payment (but not the surcharge under 37 CFR 1.20(i)).
  - The delay in payment of the maintenance fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
  - The USPTO is requested to *sua sponte* waive the surcharge in 37 CFR 1.20(i) for accepting a delayed maintenance fee payment.
  - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed by March 11, 2012, in order to be entitled to a waiver of the surcharge under 37 CFR 1.20(i).
  - It is acknowledged that the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) must be filed within twenty-four months from the expiration date of the patent. See 35 U.S.C 41(c).
  - This request and the petition to accept a delayed maintenance fee payment under 37 CFR 1.378(c) is being submitted via EFS-Web or by mail directed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
4. FOR NONPROVISIONAL PATENT APPLICATIONS FILED WITHOUT AN EXECUTED OATH OR DECLARATION OR PAYMENT OF THE BASIC FILING FEE, SEARCH FEE, AND/OR EXAMINATION FEE:
- The nonprovisional patent application was filed on or after March 11, 2011, and prior to April 12, 2011.
  - The late filing of the oath or declaration or the basic filing fee, search fee, or examination fee was due to the effects of the earthquake and/or tsunami of March 11, 2011.
  - The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
  - This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature <u>/Shrinath Malur/</u>	Date <u>May 25, 2011</u>
Name (Print/Typed) <u>Shrinath Malur</u>	Practitioner Registration Number <u>34,663</u>
<p><b>Note:</b> Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.</p>	
<input type="checkbox"/> *Total of <u>1</u> forms are submitted.	



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The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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MAILED  
MAY 31 2011  
OFFICE OF PETITIONS

In re Application of :  
Shiba et al. :  
Application No. 10/844,375 : DECISION ON PETITION  
Filed: May 13, 2004 :  
Attorney Docket No. KAS-206 :

This is a decision on the request filed May 25, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on February 17, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 1773 for re-mailing the Office action of February 17, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/  
Joan Olszewski  
Petitions Examiner  
Office of Petitions





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ALEXANDRIA, VA 22313-1450  
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*In re* Patent No. 7,240,273  
Issue Date: 7/3/2007  
Appl No.: 10/844,382  
Filed: May 13, 2004  
For: SHIEN, Shin-Lin

:  
:  
: **DECISION GRANTING**  
: **PETITION**  
: **37 CFR 1.324**  
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This is a decision on the petition filed 6/24/10 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Scott T. Baderman  
Supervisory Patent Examiner  
Art Unit 2114  
Technology Center 2100

Finnegan, Henderson, Farabow, Garrett & Dunner LLP  
901 New York Avenue, NW  
Washington, DC 20001-4413



**CERTIFICATION AND REQUEST  
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 1 of 2)

Nonprovisional Application Number or Control Number (if applicable): 10844384	Patent Number (if applicable):
First Named Inventor: GUNJI	Title of Invention: AUTOMATIC ANALYZER USING A SAMPLE CONTAINER HAVING AN INFORMATION...

**APPLICANT/PATENTEE/REEXAMINATION PARTY HEREBY CERTIFIES AND REQUESTS THE FOLLOWING FOR THE ABOVE-IDENTIFIED APPLICATION/PATENT/REEXAMINATION PROCEEDING.**

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**CERTIFICATION AND REQUEST  
FOR RELIEF DUE TO EVENTS OF MARCH 11, 2011, IN JAPAN** (Page 2 of 2)

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  - The USPTO is requested to *sua sponte* waive the surcharge set forth in 37 CFR 1.16(f) for the late filing of the oath or declaration or basic filing fee, search fee, and/or examination fee.
  - This request, together with the executed oath or declaration or the basic filing fee, search fee, or examination fee, as well as the reply to the Notice to File Missing Parts, is being submitted via EFS-Web or by mail directed to Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Signature <u>/Gene W. Stockman/</u>	Date <u>2011-05-24</u>
Name (Print/Typed) <u>Gene W. Stockman</u>	Practitioner Registration Number <u>21,021</u>
<p><b>Note:</b> Signatures of all the inventors, § 1.41(b) applicants, or assignees of record of the entire interest or their representative(s), or reexamination requesters at the appeal stage are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.</p>	
<input type="checkbox"/> *Total of _____ forms are submitted.	



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The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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United States Patent and Trademark Office  
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Alexandria, VA 22313-1450  
www.uspto.gov

**MATTINGLY & MALUR, PC**  
**1800 DIAGONAL ROAD**  
**SUITE 370**  
**ALEXANDRIA VA 22314**

**MAILED**

**MAY 20 2011**

**OFFICE OF PETITIONS**

In re Application of :  
Yoshiro Gunji :  
Application No. 10/844,384 : **DECISION ON PETITION**  
Filed: May 13, 2004 :  
Attorney Docket No. KAS-205 :

This is a decision on the request filed May 24, 2011, seeking relief under the provisions of "Relief Available to Patent and Trademark Applicants, Patentees and Trademark Owners Affected by the Catastrophic Events of March 11, 2011 in Japan," 1365 Off. Gaz. Pat. Office 170 (April 19, 2011).

The request for relief is **GRANTED**.

In the above-identified application, an Office action was mailed on March 2, 2011. The instant petition was filed prior to the expiration of the period for reply and the certifications for granting of relief are considered to be met by the submission of the request.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This application is being referred to the Technology Center, Art Unit 1773 for re-mailing the Office action of March 2, 2011. The period for reply will run from the mailing date of the Office action.

/Joan Olszewski/  
Joan Olszewski  
Petitions Examiner  
Office of Petitions





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THOMAS R. LAMPE  
BIELLEN, LAMPE & THOEMING  
1390 WILLOW PASS ROAD, SUITE 1020  
CONCORD CA 94520

**MAILED**  
NOV 03 2010  
**OFFICE OF PETITIONS**

In re Patent No. 7,020,995 :  
Issue Date: 04/04/2006 :  
Application No. 10/844,688 : DECISION ON PETITION  
Filed: 05/13/2004 :  
Attorney Docket No. HOT FOOT #5 :

This is a decision on the petition under 37 CFR 1.378(c), filed February 5, 2010, to accept the unintentionally delayed payment of the maintenance fee for the above-identified patent.

The petition is **granted**.

The patent issued April 4, 2006. The grace period for paying the maintenance fee expired on April 5, 2010. This petition was filed timely under the provisions of 37 CFR 1.378(c) because it was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Accordingly, the maintenance fee in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

*Christina Tartera Donnell*

Christina Tartera Donnell  
Senior Petitions Attorney  
Office of Petitions



<b>Doc Code: PET.AUTO</b> <b>Document Description: Petition automatically granted by EFS-Web</b>		PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	<b>REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS</b>	
Application Number	10844854	
Filing Date	13-May-2004	
First Named Inventor	Andrew Meltzer	
Art Unit	2478	
Examiner Name	ABDELNABI MUSA	
Attorney Docket Number	160.001US01	
Title	Collaboratively manipulating data asynchronously with a dynamic intergrated data collaboration engine or business information system	
<input checked="" type="radio"/> Please withdraw me as attorney or agent for the above identified patent application and all the practitioners of record.		
The reason(s) for this request are those described in 37 CFR: 10.40(c)(1)(vi)		
Certifications		
<input checked="" type="checkbox"/> I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment		
<input checked="" type="checkbox"/> I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled		
<input checked="" type="checkbox"/> I/We have notified the client of any responses that may be due and the time frame within which the client must respond		
Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:		
Name	Andrew Meltzer	
Address	6750 France Avenue South, Suite 355	
City	Edina	
State	MN	
Postal Code	55435	
Country	US	



I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Thomas W. Leffert/
-----------	---------------------

Name	Thomas W. Leffert
------	-------------------

Registration Number	40697
---------------------	-------





## UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Decision Date : June 20,2011

In re Application of :

DECISION ON REQUEST TO WITHDRAW AS

Andrew Meltzer

ATTORNEY/AGENT OF RECORD

Application No : 10844854

Filed: 13-May-2004

Attorney Docket No : 160.001US01

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed June 20,2011

The request is **APPROVED**

The request was signed by Thomas W. Leffert (registration no. 40697 ) on behalf of all the attorneys/agents of record. All attorneys/agents of record have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 with correspondence address:

Name Andrew Meltzer  
Name2  
Address 1 6750 France Avenue South, Suite 355  
Address 2  
City Edina  
State MN  
Postal Code 55435  
Country US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions





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**MAILED**  
**AUG 27 2010**  
**OFFICE OF PETITIONS**

FULBRIGHT & JAWORSKI L.L.P.  
600 CONGRESS AVE.  
SUITE 2400  
AUSTIN TX 78701

In re Patent No. 7,608,449	: DECISION ON REQUEST
McCray, et al.	: FOR
Issue Date: October 27, 2009	: RECONSIDERATION OF
Application No. 10/845,253	: PATENT TERM ADJUSTMENT
Filed: May 13, 2004	: and
Atty Docket No. <b>IOWA:05US/19405521</b>	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 17, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand , one hundred and eighty-one (1,181) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand , one hundred and eighty-one (1,181) days is **GRANTED**.

The Office acknowledges receipt of \$200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand , one hundred and eighty-one (1,181) days**.



Patent No. 7,608,449    Application No. 10/845,253    Page 2

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



**DRAFT COPY**

UNITED STATES PATENT AND TRADEMARK OFFICE

**CERTIFICATE OF CORRECTION**

PATENT : 7,608,449 B1

DATED : Oct. 27, 2009

INVENTOR(S) : McCray, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (872) days

Delete the phrase "by 872 days" and insert – by 1,181 days--



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

Paper No.: \_\_\_\_\_

DATE : 2/26/11

TO SPE OF : ART UNIT 2471

SUBJECT : Request for Certificate of Correction for Appl. No.: 10845822 Patent No.: 7710930

CofC mailroom date:

2/22/11

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**

**Randolph Square – 9D10-A**

**Palm Location 7580**

**You can fax the Directors/SPE response to 571-270-9990**

\_\_\_\_\_  
Certificates of Correction Branch

*Lamonte Newsome*

Certificates of Correction Branch

**571-272-3421**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: N/A



SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Chapman

AU 2471

SPE

Art Unit





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Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

Jim Wallace Sargent, III  
121 Fairground Road  
Florence AL 35630

**MAILED**

**MAY 03 2011**

**OFFICE OF PETITIONS**

In re Application of	:	
Jim Wallace Sargent III	:	
Application No. 10/845,903	:	DECISION ON PETITION
Filed: May 15, 2004	:	
Attorney Docket No. <b>SARG001</b>	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 29, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 13, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 14, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$810, and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.



Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3764 for appropriate action by the Examiner in the normal course of business on the reply received.

A handwritten signature in black ink, appearing to be 'JoAnne Burke', written over the printed name.

JoAnne Burke  
Petitions Examiner  
Office of Petitions





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UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/846,320	05/14/2004	Mohit Mohan	020431.1362	1347
53184 7590 10/03/2011 Booth Udall, PLC 1155 W Rio Salado Parkway Suite 101 Tempe, AZ 85281			EXAMINER AN, IG TAI	
			ART UNIT 3687	PAPER NUMBER
			NOTIFICATION DATE 10/03/2011	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

steven@boothudall.com  
hbarnes@boothudall.com





UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND  
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, DC 20231  
www.uspto.gov

SEP 30 2011

Booth Udall, PLC  
1155 W Rio Salado Parkway  
Suite 101  
Tempe, AZ 85281  
UNITED STATES

In re application of:	:	DECISION ON PETITION
Vasudevan (nmi) Narayanan et al.	:	TO CORRECT INVENTORSHIP
Serial Number: 10/846,320	:	UNDER 37 CFR. 1. 48
Filed: May 14, 2004	:	
For: PLANNING A SUPPLY OF ITEMS TO A	:	
FIRST LOCATION ASSOCIATED WITH	:	
A SUPPLY CHAIN FROM ONE OR	:	
MORE SECOND LOCATIONS	:	
ASSOCIATED WITH THE SUPPLY	:	
CHAIN	:	
	:	

This is a decision on the petition filed on September 30, 2004 under 37 CFR 1.48(b) to correct the inventorship of the above identified application. A petition fee of \$130.00 was included.

Petition is GRANTED.

The application was filed on May 14, 2004 listing Mohit (nmi) Mohan, Nikhil T. Jain, and Amol B. Adgaonmkar as inventors.

On September 30, 2004, applicants filed the present petition to add as inventor: Vasudevan (nmi) Narayanan.

In view of the petition, this application has been corrected in compliance with 37 CFR 1.48(b). The inventorship of this application has been changed to Mohit (nmi) Mohan, Nikhil T. Jain, Amol B. Adgaonmkar, and Vasudevan (nmi) Narayanan.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt and PTO PALM data to reflect the inventorship as corrected.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Matthew S. Gart at (571) 272-3955.

/Matthew S. Gart/  
Supervisory Patent Examiner Art Unit 3687  
Technology Center 3600  
(571) 272-3955  
Facsimile No.: (571) 273-3955



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,063,420	2006-06-20	10/846,349	2004-05-14	ISL.021A

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☒ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Ira S. Lerner/		Date (YYYY-MM-DD) 2011-03-11
Name	Ira S. Lerner		
Enter Reel and Frame Number			<input type="button" value="Remove"/>
Reel Number	017280	Frame Number	0231
Click ADD for additional Reel Number and Frame Number			<input type="button" value="Add"/>
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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[www.uspto.gov](http://www.uspto.gov)

In re Patent No. 7063420 :  
Issue Date: June 20, 2006 :  
Application No. 10846349 :DECISION GRANTING PETITION  
Filed: May 14, 2004 :UNDER 37 CFR 1.378(c)  
Attorney Docket No. IMMAST.021A :

This is a decision on the electronic petition, filed March 14, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 14, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.





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[www.uspto.gov](http://www.uspto.gov)

In re Patent No. 7112994 :  
Issue Date: September 26, 2006 :  
Application No. 10846699 :DECISION GRANTING PETITION  
Filed: May 17, 2004 :UNDER 37 CFR 1.378(c)  
Attorney Docket No. :

This is a decision on the electronic petition, filed August 31, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 31, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,112,994	2006-09-26	10/846,699	2004-05-17	TIER-0013.USC

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |   | Fee | Code   |
|---|-----|--------|
| <input checked="" type="radio"/> 3 ½ year |     | (1551) |
| <input type="radio"/> 7 ½ year            |     | (1552) |
| <input type="radio"/> 11 ½ year           |     | (1553) |

### Small Entity

- |                                 | Fee | Code   |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year  |     | (2551) |
| <input type="radio"/> 7 ½ year  |     | (2552) |
| <input type="radio"/> 11 ½ year |     | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jose S. Garcia/	Date (YYYY-MM-DD)	2011-08-31
Name	Jose S. Garcia	Registration Number	43628
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
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**MAILED**

**OCT 25 2010**

**OFFICE OF PETITIONS**

SOFER & HAROUN LLP.  
317 MADISON AVENUE, SUITE 910  
NEW YORK NY 10017

In re Patent No. 7,729,699  
Issue Date: June 1, 2010  
Application No. 10/846,719  
Filed: May 13, 2004  
Attorney Docket No. 655-016C4

**DECISION ON PETITION**

This is a decision on the Request For Correction Of Patent Under Rule 37 CFR 1.183, filed September 2, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignee's name. The request is being treated as a petition under 37 CFR §3.81(b).

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct assignee's name on the previously submitted PTOL-85B and that such error to be corrected was inadvertent. Accordingly, petitioner requests that a Certificate of Correction be issued to correct the assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

*After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite \$100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite \$130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i) have been submitted. Further, Office assignment records are consistent with the requested correction. However, after reviewing the Office records, a corrected Certificate of Correction was previously signed and sealed on October 19, 2010. (copy enclosed)




U.S. Patent No. 7,729,699  
Application No. 10/846,719  
Decision on Petition under 37 CFR 3.81

Page 2

Inquiries related this communication should be directed to Cheryl Gibson-Baylor at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

  
Cheryl Gibson-Baylor  
Petitions Examiner  
Office of Petitions





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Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

JANET IRENE POWELL  
1639 ELBERTA ST. SW  
CANTON OH 44709

**MAILED**

**MAR 14 2011**

**OFFICE OF PETITIONS**

In re Application of	:
Jenet I. POWELL et al.	:
Application No. 10/846,748	: DECISION ON PETITION
Filed: May 14, 2004	:
Attorney Docket No.	:

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed June 09, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment Office action mailed, July 17, 2007, which set a period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 18, 2007.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks items (2) and (3).

Petitioner filed a petition under 37 CFR 1.137(a) with the fee of \$220, the correct petition should be a petition under 37 CFR 1.137 (b) with the fee of \$810.00.



The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
- (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
- (3) An assignee as provided for under § 3.71(b) of this chapter; or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Jenet I. Powell) was ever given a power of attorney to act on behalf of inventor Jason M. Skaarup, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unavoidable delay.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the \$810.00 petition fee.



Further correspondence with respect to this matter should be addressed as follows:

By Mail:                Mail Stop PETITION  
                             Commissioner for Patents  
                             P. O. Box 1450  
                             Alexandria, VA 22313-1450

By hand:                U. S. Patent and Trademark Office  
                             Customer Service Window, Mail Stop Petitions  
                             Randolph Building  
                             401 Dulany Street  
                             Alexandria, VA 22314

By facsimile:            **(571) 273-8300**  
                             Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

/Thurman K. Page/  
Thurman K. Page  
Petitions Examiner  
Office of Petitions





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Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

MCKENNA LONG & ALDRIDGE, LLP  
1900 K STREET, NW  
WASHINGTON, DC 20006

**MAILED**

**MAY 05 2011**

**OFFICE OF PETITIONS**

In re Patent No. 7,021,342 :  
Issue Date : April 4, 2006 :  
Application No. 10/847,286 : **DECISION ON PETITION**  
Filed: May 18, 2004 :  
Patentee(s): Joung-Ho Ryu, et. al. :

This is a decision on the renewed "REQUEST FOR CORRECTION OF ASSIGNEE UNDER 37 CFR 3.81(b)" filed on March 15, 2011, to correct and add the name of the co-assignee on the front page of the above-identified patent by way of a certificate of correction.

Petitioner states "Change First assignee's name from LG Philips LCD Co., Ltd. to **--LG Display Co., Ltd.--** as indicated per the recorded assignment filed October 30, 2008 at Reel/Frame No: 021763/0212; and Add the second assignee **"TOP ENGINEERING CO., LTD."** as listed as item #2 in box #2 "Name and address of Receiving Party(ies)" on the recorded assignment filed April 24, 2003, at Reel/Frame No: 014005/0094."

37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but **prior to issuance of a patent.**

Petitioner should note that U.S. Patent and Trademark Office (USPTO) assignment records disclose that an assignment (name change) from LG Philips LCD Co., Ltd. to --LG Display Co., Ltd, was recorded on October 30, 2008, after the date of issuance of this patent; therefore, a Certificate of Correction would not be in order.

Additionally, a review of the USPTO assignment record details for Reel/Frame number 014005/0094, recorded on April 24, 2003, fails to state the residence information of Top Engineering Co., Ltd. as Seoul, Korea. Therefore, a Certificate of Correction would not be in order.

MPEP 307 states in part, "A request for a certificate of correction under 37 CFR 1.323 (see MPEP § 1481 and § 1485) arising from incomplete or erroneous assignee's name furnished, or a missing assignee's name, in item 3 of PTOL-85B will not be granted unless a request under 37 CFR 3.81(b) has been granted and the assignment was submitted for recordation as set forth in 37 CFR 3.11 before the patent issued. Any such request under 37 CFR 3.81(b) should be directed to the Office of Petitions and should include:

- (A) the processing fee required by 37 CFR 1.17(i);
- (B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

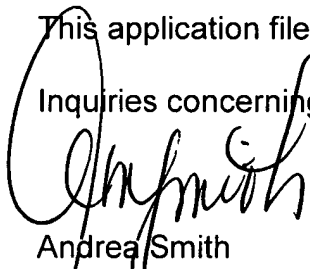


- (C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before the issuance of the patent; and
- (D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).

In view of the above, the request is again **dismissed**.

This application file is being referred to Files Repository.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

A handwritten signature in black ink, appearing to read 'Andrea Smith', is written over the printed name and title.

Andrea Smith  
Petitions Examiner  
Office of Petitions





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Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

**WALL & TONG , LLP**  
**25 James Way**  
**Eatontown NJ 07724**

**MAILED**

**JAN 19 2011**

**OFFICE OF PETITIONS**

In re Application of	:	
Jerry Rosenfeld	:	
Application No. 10/847,435	:	DECISION ON PETITION
Filed: December 23, 2010	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 4, 2011, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by an attorney on behalf of inventor Jerry Rosenfeld attesting to his/her age. The above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1745 for action on the merits commensurate with this decision.

/Kimberly Inabinet/

Kimberly Inabinet  
Petitions Examiner  
Office of Petitions





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United States Patent and Trademark Office  
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PAUL D. YASGER  
ABBOTT LABORATORIES  
100 ABBOTT PARK ROAD  
DEPT. 377/AP6A  
ABBOTT PARK IL 60064-6008

**MAILED**

DEC 10 2010

**OFFICE OF PETITIONS**

In re Patent No. 7,141,242	:	
Issued: November 28, 2006	:	
Application No. 10/847,493	:	ON PETITION
Filed: May 17, 2004	:	
Attorney Docket No. 6794.US.D1	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 21, 2010.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.



Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

A handwritten signature in black ink, appearing to read "Joan Olszewski".

Joan Olszewski  
Petitions Examiner  
Office of Petitions

cc: Lisa V. Mueller  
Polsinelli Shughart PC  
161 N. Clark Street, Suite 4200  
Chicago, IL 60601-3316



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7135855	2006-11-14	10847500	2004-05-17	

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☒ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Sole Patentee			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature.			
Signature	/David S. Nyce/	Date (YYYY-MM-DD)	2010-12-23
Name	David S. Nyce		
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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In re Patent No.	7135855	:
Issue Date:	November 14, 2006	:
Application No.	10847500	:DECISION GRANTING PETITION
Filed:	May 17, 2004	:UNDER 37 CFR 1.378(c)
Attorney Docket No.		:

This is a decision on the electronic petition, filed December 23, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 23, 2010. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7106589	2006-09-12	10847535	2004-05-17	1612-002

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                                 | Fee | Code   |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year  |     | (1551) |
| <input type="radio"/> 7 ½ year  |     | (1552) |
| <input type="radio"/> 11 ½ year |     | (1553) |

### Small Entity

- |   | Fee | Code   |
|---|-----|--------|
| <input checked="" type="radio"/> 3 ½ year |     | (2551) |
| <input type="radio"/> 7 ½ year            |     | (2552) |
| <input type="radio"/> 11 ½ year           |     | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael J. Persson/	Date (YYYY-MM-DD)	2011-09-21
Name	Michael J. Persson	Registration Number	41248
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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In re Patent No. 7106589 :  
Issue Date: September 12, 2006 :  
Application No. 10847535 :DECISION GRANTING PETITION  
Filed: May 17, 2004 :UNDER 37 CFR 1.378(c)  
Attorney Docket No. 1612-002 :

This is a decision on the electronic petition, filed September 21, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 21, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.





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**FEB 23 2011**

**OFFICE OF PETITIONS**

BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH VA 22040-0747

In re Patent No. 7,829,103	:	DECISION ON REQUEST
Pethe et al.	:	FOR
Issue Date: November 9, 2010	:	RECONSIDERATION OF
Application No. 10/847,606	:	PATENT TERM ADJUSTMENT
Filed: May 18, 2004	:	and
Atty Docket No. 2121-0181PUS1	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)." This petition was filed on January 7, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand and eighty-three (1083) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred and forty-two (842) days is **GRANTED to the extent indicated herein.**

Patentee has indicated that this patent is not subject to a terminal disclaimer.<sup>1</sup>

This patent issued on November 9, 2010, with a patent term adjustment of 962 days.

The Office has determined that the patent term adjustment for the above-identified patent is **842 days.**

---

<sup>1</sup> Petition, page 2.



Examination delay totals 521 ( $492 + 29^2$ ) days.

Applicant delay totals 247 ( $33 + 94 + 120^3$ ) days.

Neither the 29-day adjustment nor the 120-day reduction appears on the "Patent Term Adjustments" sheet which Patentee has included as Exhibit 2 since each overlaps with the over three-year period.

A notice of appeal was filed on January 5, 2009, and a Request for Continued Examination (RCE) was filed on May 5, 2009. The 120 days of the over three-year period consumed by appellate review, beginning on January 4, 2009 and ending on May 4, 2009, the day before the RCE was filed, is not included in the B-delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

Patentee argues that the Appellate period should not be excluded from the B-delay, due to the fact that an RCE was filed subsequent to the filing of the notice of appeal, and as such, "the application did not actually enter the appeals process." It is undisputed that the appellate process concluded with the filing of an RCE. However the Office holds that the appeals process commenced with the filing of the notice of appeal, and as such, the fact that this application was never before the Board of Patent Appeals and Interferences is of no consequence.

The over three-year period totals 717 days. The period of B-delay totals 568 ( $717$  over three-year minus  $29$  overlapping days of examination delay from June 4, 2008 until July 3, 2008 minus the 120 days of appellate review that are excluded from the period of B-delay) days.

As such, the patent term adjustment is increased by 842 ( $521$  days of examination delay plus  $568$  "B-delay" minus  $247$  days of applicant delay) days, not 1083 days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

---

<sup>2</sup> A response to a non-final Office action was received on February 4, 2008, and the Office mailed a final Office action four months and 29 days later. This warrants an adjustment of 29 days, pursuant to 37 C.F.R. § 1.703(a)(2).

<sup>3</sup> Applicant filed a Notice of Appeal on January 5, 2009, and filed a supplemental reply in the form of a Request for Continued Examination 120 days later. This warrants a reduction of 120 days, pursuant to 37 C.F.R. § 1.704(c)(8).



The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or Patentee an opportunity to be heard. Accordingly, Patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under 37 C.F.R. § 1.136.

This patent is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred and forty-two (842) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanowski/  
Paul Shanowski  
Senior Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE  
**CERTIFICATE OF CORRECTION**

PATENT : 7,829,103 B2

DATED : November 9, 2010

**DRAFT**

INVENTOR(S) : Pethe et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 962 days

Delete the phrase “by 962 days” and insert – by 842 days--





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ORTIZ & LOPEZ, PLLC  
P.O. BOX 4484  
ALBUQUERQUE NM 87196-4484

**MAILED**

**OCT 06 2010**

**OFFICE OF PETITIONS**

In re Patent No. 6,937,903	:	
Issued: August 30, 2005	:	
Application No. 10/847,738	:	ON PETITION
Filed: May 17, 2004	:	
Attorney Docket No. 920607-95771	:	

This is a decision on the petition under 37 CFR 1.378(c), filed July 21, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 31, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski  
Petitions Examiner  
Office of Petitions



Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH*\*

Attorney Docket  
Number: TI-37086

Patent Number: 7,668,243

Filing Date  
(or 371(b) or (f) Date): 05-18-2004

Issue Date: 02/23/2010

First Named  
Inventor: Jin-Meng Ho

Title: AUDIO AND VIDEO CLOCK SYNCHRONIZATION IN A WIRELESS NETWORK

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

\**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature / Wade J. Brady III /

Date August 12, 2010

Name  
(Print/Typed) Wade J. Brady III

Registration Number 32,080

**Note:** Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below\*.



\*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.





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TEXAS INSTRUMENTS INCORPORATED  
P O BOX 655474, M/S 3999  
DALLAS, TX 75265

Mail Date: 08/17/2010

<b>Applicant</b>	: Jin-Meng Ho	: DECISION ON REQUEST FOR
<b>Patent Number</b>	: 7668243	: RECALCULATION of PATENT
<b>Issue Date</b>	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
<b>Application No</b>	: 10/847,804	: OF WYETH AND NOTICE OF INTENT TO
<b>Filed</b>	: 05/18/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1653** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.





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ONE FINANCIAL CENTER  
BOSTON, MA 02111

**MAILED**  
**JAN 10 2011**  
**OFFICE OF PETITIONS**

In re Application of Baugh et al. :  
Application No. 10/848,302 :  
Filing Date: May 18, 2004 :  
Attorney Docket No. 37272-505C03US :

Letter

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed September 7, 2010.

The deficiency payment of \$1,165 is hereby accepted.

The change of status to large entity has been entered and made of record.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley  
Senior Petitions Attorney  
Office of Petitions





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2200 CLARENDON BLVD.  
SUITE 1400  
ARLINGTON, VA 22201

**MAILED**

**FEB 15 2011**

**OFFICE OF PETITIONS**

In re Application of :  
Scott Wilhelm, et al. :  
Application No. 10/848,567 :  
Filed: May 19, 2004 :  
Attorney Docket No. BAYER-0049-C01 :

**ON PETITION**

This is a decision on the petition, filed January 14, 2011, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application or in the alternative a petition to revive under the unintentional provisions of 37 CFR 1.137(b).

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed March 29, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on May 30, 2010. See MPEP 1215.04.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition is under 37 CFR 1.137(b) **GRANTED**.

**As to the petition under 37 CFR 1.181:**

While it is noted that petitioner did file a Request for Continued Examination (RCE) and an information disclosure statement (IDS) within the two months of the Notice of Appeal filed March 29, 2010, however, the IDS filed does not constitute a proper reply to the Final Rejection that was mailed September 29, 2010 in that the submission was not a reply under 37 CFR 1.111 to the final rejection. See MPEP 706.07(h)(II and X).

In view of the above, the petition to withdraw the holding of abandonment cannot be granted at this time.



**As to the petition under 37 CFR 1.137(b):**

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$1801, and the submission required by 37 CFR 1.114; (2) the petition fee of \$810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1615 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Carl Friedman/  
Carl Friedman  
Petitions Examiner  
Office of Petitions





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**HUGH MCTAVISH  
MCTAVISH PATENT FIRM  
429 BIRCHWOOD COURTS  
BIRCHWOOD MN 55110**

**MAILED**

**MAR 14 2011**

In re Application of	:	<b>OFFICE OF PETITIONS</b>
LEE, et al	:	
Application No. 10/848,689	:	<b>DECISION ON PETITION</b>
Filed: May 17, 2004	:	<b>TO WITHDRAW</b>
Attorney Docket No. 0106-003-US1	:	<b>FROM RECORD</b>
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 10, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Hugh Mctavish on behalf of all the attorneys of record.

All the attorneys of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below until otherwise properly notified by the applicant.



Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane C. Goodwyn/  
Diane C. Goodwyn  
Petitions Examiner  
Office of Petitions

cc: JONG Y. LEE  
350 VAN WHITE MEMORIAL BLVD.,  
UNIT 319  
MINNEAPOLIS MN 55405





# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
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Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/848,689	05/17/2004	Jong Y. Lee	0106-003-US1

**CONFIRMATION NO. 7255**

## POWER OF ATTORNEY NOTICE



OC000000046310524

66981  
HUGH MCTAVISH  
MCTAVISH PATENT FIRM  
429 BIRCHWOOD COURTS  
BIRCHWOOD, MN 55110

Date Mailed: 03/03/2011

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/10/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/dcgoodwyn/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101





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R.C. HARPMAN  
HARPMAN & HARPMAN  
819 SOUTHWESTERN RUN  
YOUNGSTOWN OH 44514

**MAILED**  
JAN 13 2011  
**OFFICE OF PETITIONS**

In re Patent No. 6,983,033  
Issue Date: January 3, 2006  
Application No. 10/849,188  
Filed: May 20, 2004  
Attorney Docket No. 4211

:  
:  
: ON PETITION  
:  
: \*

This is a decision on the petition under 37 CFR 1.378(c), filed October 8, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 4, 2010 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/KOC/  
Karen Creasy  
Petitions Examiner  
Office of Petitions



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

**PAPER NO.:**

**DATE : 10/22/10**

**TO SPE OF : ART UNIT 2825 Attn: CHIANG JACK (SPE)**

**SUBJECT : Request for Certificate of Correction for Appl. No.: 10/849534 Patent No.: 7246340**

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)  
Randolph Square Building (RSQ)  
2800 South Randolph Street, Suite 9XXXX  
Arlington, VA 22206  
PALM Location 7580

**Tasneem Siddiqui**

Certificates of Correction Branch  
703-756-1593

Please check Claim 35

**Thank You for Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Accepted**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

**Comments:** Certificate of Correction filed 8/6/2010 has been accepted. Changes in claim 35  
has been approved.

/Jack Chiang/

**SPE**

2825

**Art Unit**



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

## PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,125,382	2006-10-24	10/849,614	2004-05-20	

**CAUTION:** Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

### SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

### LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

### NOT Small Entity

- |                       | Fee       | Code   |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year  | (1551) |
| <input type="radio"/> | 7 ½ year  | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

### Small Entity

- |                                  | Fee       | Code   |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year  | (2551) |
| <input type="radio"/>            | 7 ½ year  | (2552) |
| <input type="radio"/>            | 11 ½ year | (2553) |

### SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

### MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

### STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

### THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest



Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/John P Moran/	Date (YYYY-MM-DD)	2011-04-06
Name	John P Moran	Registration Number	30906
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. <b>This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</b></p>			



## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.





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In re Patent No. 7125382 :  
Issue Date: October 24, 2006 :  
Application No. 10849614 :DECISION GRANTING PETITION  
Filed: May 20, 2004 :UNDER 37 CFR 1.378(c)  
Attorney Docket No. APPDS-002A :

This is a decision on the electronic petition, filed April 6, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 6, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.





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TEXAS INSTRUMENTS INCORPORATED  
P.O. BOX 655474, M/S 3999  
DALLAS, TX 75265

**MAILED**  
**AUG 24 2010**  
**OFFICE OF PETITIONS**

In re Application of  
Frederic Bonavita et al  
Application No. 10/849,709  
Filed: May 19, 2004  
Attorney Docket No. TI-35818

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ON PETITION

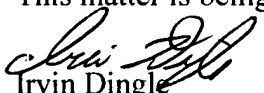
This is a decision on the petition under 37 CFR 1.137(b), filed August 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 22, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 23, 2010.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2116 for further processing.

  
Irvin Dingle  
Petitions Examiner  
Office of Petitions





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FOLEY & LARDNER LLP  
150 EAST GILMAN STREET  
P.O. BOX 1497  
MADISON WI 53701-1497

**MAILED**

**DEC 02 2010**

**OFFICE OF PETITIONS**

In re Application of	:	
Isokangas, et al.	:	
Application No. 10/849,892	:	ON APPLICATION FOR
Filed: May 21, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 088245-1235	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. § 1.705(b), filed September 21, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand one hundred seventy-three (1173) days, not nine hundred thirty-five (935) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance where a request for continued examination (RCE) was filed. The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.



Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent or even the filing date of the request for continued examination is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee<sup>1</sup>.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). This fee is required and will not be refunded.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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<sup>1</sup> For example, if an applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the 37 CFR 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

*Shirene Willis Brantley*

Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions





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FITCH EVEN TABIN & FLANNERY  
120 SOUTH LASALLE STREET  
SUITE 1600  
CHICAGO IL 60603-3406

**MAILED**

**FEB 28 2011**

**OFFICE OF PETITIONS**

In re Application of	:	
Henning VIBY	:	
Application No. 10/850,197	:	DECISION ON PETITION
Filed: May 20, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 8263.85778	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed July 29, 2004, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II. The delay in rendering a decision is sincerely regretted.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

(A) That there is an infringing device or product actually on the market or method in use;

(B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and

(C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.

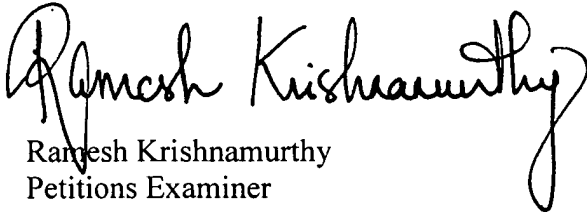
Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.



The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4914.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

A handwritten signature in black ink, reading "Ramesh Krishnamurthy". The signature is fluid and cursive, with the first letter 'R' being particularly large and stylized. The name is written in a single line.

Ramesh Krishnamurthy  
Petitions Examiner  
Office of Petitions





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COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
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MCANDREWS HELD & MALLOY, LTD  
500 WEST MADISON STREET  
SUITE 3400  
CHICAGO IL 60661

**MAILED**

**OCT 12 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,757,051	:
Issued: July 13, 2010	: DECISION ON PATENT TERM
Application No. 10/850,266	:
Filed: May 20, 2004	:
Atty. Dkt. No.: 15492US01	:

This is a decision on the application for patent term adjustment filed September 10, 2010 requesting that the patent term adjustment be increased from 1755 days to 337 days.

The request for reconsideration of the patent term adjustment (PTA) pursuant to 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Pat. No. 7,757,051 on July 13, 2010. The patent issued with a patent term adjustment of 1755 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(d). Patentee contests the reduction of two day in connection with the submission of the issue fee on June 7, 2010 and reference 37 CFR 1.6(a)(1) and 1.7(a).

Patentee's arguments have been carefully considered, but are not persuasive. The Notice of Allowance was mailed March 5, 2010. The issue fee was submitted June 7, 2010. Thus, in accordance with 37 CFR 1.704(b), the patent term adjustment was properly reduced two day, the reduction having commenced June 6, 2010 and June 7, 2010.

Patentee's attention is directed to MPEP 2731 wherein it states in part:

"Moreover, 37 CFR 1.703(f) provides that the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 shall not be taken into account in this calculation. The date indicated on a certificate of mailing is used only to determine whether the correspondence is timely (including whether any extension of the time and fee are required) so as to avoid abandonment of the application or termination or dismissal of proceedings. The actual date of receipt of the correspondence in the Office is used for all other purposes. See 37 CFR 1.8(a). Thus, while the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 will continue to be taken into account in determining timeliness, the date of filing (37 CFR 1.6) will be the date used in a patent term adjustment calculation."

In view thereof, no adjustment to the patent term will be made.



Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

*/ALESIA M. BROWN/*

Alesia M. Brown  
Senior Petitions Attorney  
Office of Petitions





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NIXON PEABODY, LLP  
401 9TH STREET, NW  
SUITE 900  
WASHINGTON DC 20004-2128

MAILED

OCT 18 2010

OFFICE OF PETITIONS

DECISION ON PETITION  
TO WITHDRAW  
FROM RECORD

In re Application of  
Feldhoffer et al.  
Application No. 10/850,452  
Filed: May 21, 2004  
Attorney Docket No. 741439-14

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 29, 2010.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

*An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

Therefore, as there is currently no Statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Currently, an Examiner's Answer was mailed September 15, 2010 in the above-identified application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski  
Petitions Examiner  
Office of Petitions



## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/1/2011 Paper No.: \_\_\_\_\_  
TO SPE OF : ART UNIT 2128 Kamini Shah (Spec)  
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/556455 Patent No.: 7707012

CofC mailroom date: 11/10/2010

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

**FOR PAPER FILES:**

(Col. 10 Line 19 claim 9), (Col. 10 line 23 claim 10) (Col. 10 line 12 claim 12)

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)  
Randolph Square – 9D10-A  
Palm Location 7580

H. R. L.  
Certificates of Correction Branch  
703-756-1571 \_\_\_\_\_

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ Approved

All changes apply.

☐ Approved in Part

Specify below which changes do not apply.

☐ Denied

State the reasons for denial below.

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature]  
SPE

2128  
Art Unit





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**SEP 27 2011**

**OFFICE OF PETITIONS**

**O'Melveny & Myers LLP  
IP&T Calendar Department LA-13-A7  
400 South Hope Street  
Los Angeles CA 90071-2899**

In re Patent No. 7,169,942	:	
Issue Date: January 30, 2007	:	
Application No. 10/850,588	:	ON PETITION
Filed: May 20, 2004	:	
Attorney Docket No. 335,699-070	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 29, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 31, 2011, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.



The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet  
Petitions Examiner  
Office of Petitions

cc: Howard Eisenberg  
1220 Limberlost Lane  
Gladwyne, PA 19035



**SPE RESPONSE FOR CERTIFICATE OF CORRECTION**

DATE : 8/9/10

Paper No.: \_\_\_\_\_

TO SPE OF : ART UNIT 2835 <sup>1</sup>

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/858702 Patent No.: 727296B2

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**  
**Randolph Square – 9D10-A**  
**Palm Location 7580**

*Virginia Tolbert*

Certificates of Correction Branch

571-272-0460

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **2 Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: Approved <sup>3</sup>

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

/Jinhee J. Lee/ SPE A.U. 2835 <sup>4</sup>

3/31/11 <sup>5</sup>





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February 28, 2012

Kulaniakea Fisher  
Workman Nydegger  
1000 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, UT 84111

Patent No: 7,277,296 B2  
Application No.: 10/850,702  
Applicant: Donald A. Ice  
Issued: October 2, 2007  
Title: **CARD CAGE SYSTEM**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322/1.323.

The errors complained of in the drawings (Fig. 4 and Fig. 9A) cannot be corrected since the corrected figures were never received by the office.

In view of the foregoing, your request in this matter is hereby **denied**.

Future correspondence concerning this matter should be directed to Decisions & Certificates of Correction Branch.

A certificate of correction will be issued to correct the remaining errors mentioned in your request.

/Virginia Tolbert/  
Virginia Tolbert  
For Mary Diggs, Supervisor  
Decisions and Certificate of Correction  
(571) 272-0460

vt





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/850,703	05/20/2004	Vahit Hakan Hacigumus	ARC920040023US1	1287
7590		03/28/2012		
John L. Rogitz				
Rogitz & Associates				
750 B Street, Suite 3120				
San Diego, CA 92101				
			EXAMINER	
			ORTIZ DITREN, BELIX M	
			ART UNIT	PAPER NUMBER
			2164	
			MAIL DATE	DELIVERY MODE
			03/28/2012	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.





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John L. Rogitz  
Rogitz & Associates  
750 B Street, Suite 3120  
San Diego, CA 92101

In re Application of: )  
Vahit HACIGUMUS, et al )  
Application No. 10/850,703 ) **DECISION ON PETITION**  
Filed: May 20, 2004 )  
For: METHOD AND SYSTEM FOR CREATING )  
AND LOADING DATA WAREHOUSE FROM )  
SEMI-STRUCTURED DOCUMENT )

This is a decision on the petition filed on 21 September 2011. The petition has been treated as a petition under 37 CFR § 1.181 requesting the Technology Center Director to review the Office Action, after the Board's decision, mailed on 19 September 2011.

The petition is **GRANTED**.

MPEP § 1214.04 states, in part:

If the examiner has specific knowledge of the existence of a particular reference or references which indicate nonpatentability of any of the appealed claims as to which the examiner was reversed, he or she should submit the matter to the Technology Center (TC) Director for authorization to reopen prosecution ... The TC Director's approval is placed on the action reopening prosecution. [Emphasis added]

A review of the Office Action mailed 19 September 2011 indicates the TC Director's approval was not placed on the Office Action reopening prosecution. Pursuant to MPEP § 1214.04, the Office Action mailed 19 September 2011 is hereby vacated.

An appropriate Office Action by the examiner of record will be mailed in due course.

Any inquiry concerning this decision should be directed to Vincent N. Trans whose telephone number is (571) 272-3613.

Wendy R. Garber, Director  
Technology Center 2100  
Computer Architecture and Software





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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP  
400 INTERSTATE NORTH PARKWAY SE  
SUITE 1500  
ATLANTA GA 30339

**MAILED**  
**AUG 02 2011**  
**OFFICE OF PETITIONS**

In re Application of. :  
Aytur :  
Application No.: 10/850,774 : ON PETITION  
Filed: May 21, 2004 :  
Attorney Docket No: **252326-1080** :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED<sup>1</sup>**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions

<sup>1</sup> It is noted that a fee deficiency of \$270.00 was accepted by a decision mailed July 15, 2010. Yet, the amount of the fee deficiency, i.e. \$270.00 was not charged to the authorized deposit account until November 3, 2010. In any case, the payment of the fee deficiency is noted.



In re Application No. 10/850,774

2

cc:

Thaddeus Gabara  
62 Burlington Road  
Murray Hill, NJ 07974





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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/850,852	05/21/2004	Marc Cram	14288US02	9738

23446	7590	09/07/2011
MCANDREWS HELD & MALLOY, LTD		
500 WEST MADISON STREET		
SUITE 3400		
CHICAGO, IL 60661		

EXAMINER	
WILLIAMS, ROSS A	

ART UNIT	PAPER NUMBER
3714	

NOTIFICATION DATE	DELIVERY MODE
09/07/2011	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mhmpto@mcandrews-ip.com





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Andrew W. Bateman  
MCANDREWS, HELD & MALLOY, LTD.  
500 West Madison Street, 34<sup>th</sup> Floor  
Chicago, Illinois 60661

In re Application of: Marc Cram  
Appl. No.: 10/850,852  
Filed: 5/21/2004  
For: GAMING SYSTEM HAVING  
SELECTIVE SYNCHRONIZED  
MULTIPLE VIDEO STREAMS FOR  
COMPOSITE DISPLAY AT THE  
GAMING MACHINE

**DECISION ON PETITION  
UNDER 37 C.F.R. 1.84(a)(2) TO  
ACCEPT COLOR DRAWINGS**

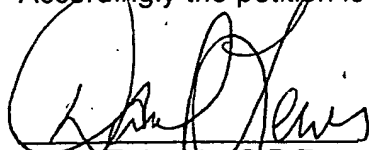
This is a decision on the petition filed on November 15, 2004, by which petitioners request requesting acceptance of color drawings. The petition is considered pursuant to 37 CFR 1.181.

The petition is requests that Figures 2 and 4 of the drawings, which are in color, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. 1.84(a)(2) must show that the color drawings are necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application or the subject matter of a statutory invention registration..

Review of the application and of the claims shows that color drawings are not the only practical medium by which to disclose the subject matter sought to be patented.

Accordingly the petition is **DENIED**



David E. Lewis, S.P.E  
Technology Center 3700





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COOPER & DUNHAM, LLP  
30 ROCKEFELLER PLAZA  
20TH FLOOR  
NEW YORK NY 10112

**MAILED**  
**SEP 28 2010**  
**OFFICE OF PETITIONS**

In re Patent No. 7,700,085	:	DECISION ON REQUEST
Stern et al.	:	FOR
Issue Date: 04/20/2010	:	RECONSIDERATION OF
Application No. 10/850,861	:	PATENT TERM ADJUSTMENT
Filed: 05/20/2004	:	
Atty Docket No.	:	
50159-A JPW/AJM/AAB	:	

This is a decision on the PETITION TO CORRECT PATENT TERM ADJUSTMENT (PTA) INDICATED IN NOTICE OF ALLOWANCE filed on June 21, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by forty (40) days.

The petition to correct the patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of zero (0) days.

As to the "B" delay period, any time consumed by continued examination of the application under 35 U.S.C. 132(b) is not included. See 35 U.S.C. 154(b)(1)(B)(i). On July 17, 2006, a request for continued examination (RCE) was filed, prior to the day after the date three years after the date application was filed, May 21, 2007. Accordingly, the entire period under § 1.702(b) is consumed by continued examination, and the "B" delay period is 0 days.

With regard to patentees' contention that a terminal disclaimer will affect the patent term adjustment calculation, 35 U.S.C. 154(b)(2)(B) provides that:

No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

37 CFR § 1.703(g) provides that:

No patent, the term of which has been disclaimed beyond a specified date, shall be adjusted under § 1.702 and this section beyond the expiration date specified in the disclaimer.



The provisions of § 154(b), for adjustment due to examination delay, apply to original applications, other than designs, filed on or after May 29, 2000. The Office calculates patent term adjustment for examination delay in all eligible applications. In calculating the patent term adjustment, the Office does not differentiate between applications that have terminal disclaimers and those that do not. Nor does the Office undertake the burdensome task of reviewing every application with a terminal disclaimer to determine if the patent term adjustment accorded would adjust the term beyond the expiration date specified in the disclaimer.

Rather, on issuance of the application, in compliance with 35 U.S.C. 154(b) and 37 CFR § 1.703(g), it is indicated in the patent that the patent term adjustment indicated therein is subject to any disclaimer. Moreover, it is also stated therein that the patent is subject to a terminal disclaimer.

Accordingly, no change will be made to the patent term adjustment of 0 days (2 days Office delay + 0 days three years delay – 430 days of applicant delay) indicated on the face of the patent.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.



Douglas I. Wood  
Senior Petitions Attorney  
Office of Petitions





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**MAILED**

**MAY 16 2011**

**OFFICE OF PETITIONS**

**Constellation Law Group, PLLC  
P.O. Box 220  
Tracyton, WA 98393**

In re Application of :  
Edward K. Y. JUNG et al. : **DECISION GRANTING PETITION**  
Application No. 10/850,914 : **UNDER 37 CFR 1.137(b)**  
Filed: 21 May 2004 :  
Atty. Docket No.: SE1-0021-US :

This is a decision on the petition under 37 CFR 1.137(b), filed 6 January 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period in 37 CFR 41.37(a)(1). A Notice of Appeal was filed February 17, 2010 and a three (3) month extension of time under the provisions of 37 CFR 1.136(a) was obtained July 19, 2010. Therefore, as an appeal brief (and appeal brief fee) was not filed within five (5) months of the Notice of Appeal, the appeal was dismissed and the proceedings as to the rejected claims were terminated. *See*, 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on 18 July 2010. *See*, MPEP 1215.04.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) a reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d).

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) an Appeal Brief, (2) a petition fee of \$1620.00, and (3) a statement of unintentional delay. The filing of the Appeal Brief is accepted as having been unintentionally delayed.

As the submitted Terminal Disclaimer and fee are unnecessary, the fee therefore is being returned.



Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application file will be referred to Technology Center AU 2442 for further action on the filed response.

A handwritten signature in black ink, appearing to read 'Anthony Knight', is positioned above the printed name.

Anthony Knight  
Director  
Office of Petitions





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DALLAS TX 75380

**MAILED**  
OCT 04 2010  
**OFFICE OF PETITIONS**

In re Application of	:
Pempsell, et al.	:
Application No. 10/850,990	: ON REQUEST FOR
Filed: May 20, 2004	: RECONSIDERATION OF
Attorney Docket Number: ENXN01-00007	: PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed May 18, 2010. Applicants believe that they should be accorded an additional PTA of 161 days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.



Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee<sup>1</sup>.

In view thereof, the correct determination of PTA prior to issuance is **zero (0) days** (0 days of PTO delay, reduced by 327 (60+91+87+89) days of Applicant delay).

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.



Anthony Knight  
Director  
Office of Petitions

---

<sup>1</sup> For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.





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Elan Drug Delivery, Inc. c/o  
Foley & Lardner  
3000 K Street, N.W.  
Suite 500  
Washington DC 20007-5109

**MAILED**

**OCT 20 2010**

**OFFICE OF PETITIONS**

In re Application of	:	
Bosch, et al.	:	
Application No. 10/851,661	:	ON APPLICATION FOR
Filed: May 24, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. <b>029318-1025</b>	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. § 1.705(b)" filed October 5, 2010. Applicants submit that the patent term adjustment to be indicated on the patent is one thousand, one hundred and fifty-six (1,156) days, not zero(0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.



Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee<sup>1</sup>.

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including -

---

<sup>1</sup> For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the 37 CFR 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on June 14, 2010.

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **granted to the extent indicated herein.**

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the Notice of Allowance is six hundred and fifty-four (654) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On July 7, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. Applicants timely filed the instant application for patent term adjustment<sup>2</sup>.

Applicants dispute the reduction to the patent term adjustment of 881 days entered pursuant to 37 CFR 1.704(c)(8) for the filing of an Information Disclosure Statement (IDS) on March 15, 2007. Specifically, applicants states that:

The U.S. PTO has charged Applicants 881 days for an Information Disclosure Statement filed on March 15, 2007. Applicants would like to point out that prosecution on the merits (first Official Action) did not begin until May 14, 2007, when the first non-final Office action was mailed.

Applicants believe that the U.S. PTO has inadvertently counted the License and Review Response filed October 15, 2004 to an Office Action.

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<sup>2</sup> The issue fee was paid on October 5, 2010. Accordingly, applicant timely filed the instant request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.704(b) prior to the payment of the fee set forth in 37 CFR 1.18(e).



*Excerpt taken from "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. § 1.705(b)" filed October 5, 2010, p. 2.*

Applicants' argument has been considered and is well taken. A review of the record reveals that the USPTO action pursuant to 37 CFR 1.702(a)(1) was mailed on May 14, 2007. The filing of the IDS on March 15, 2007, is not subject to a reduction under 37 CFR 1.704(c)(8) because no action under 37 CFR 1.702(a)(1) yet been mailed and applicants had not filed a reply pursuant to 37 CFR 1.704(b). **Accordingly, the period of reduction of 881 days is being removed.**

The fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b) was received. The fee will not be refunded as it is a requirement of a petition under 37 CFR 1.705(b).

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to the patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

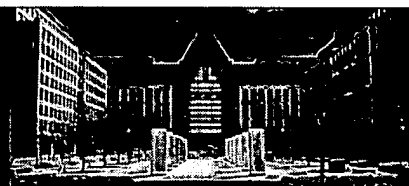
Kenya A. McLaughlin  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen





# Patent Term Adjustments



PTA/PTE Information    Patent Term Adjustment    Patent Term Extension

Application Number\*: 10851661

Search

Explanation of PTA Calculation

Explanation of PTE Calculation

## PTA Calculations for Application: 10851661

Application Filing Date	05/24/2004	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays	584
A Delays	584	PTO Manual Adjustment	881
B Delays	0	Applicant Delay (APPL)	911
C Delays	0	Total PTA (days)	654

\* - Sorted Column

## File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
120	10/18/2010		P028	Adjustment of PTA Calculation by PTO	881	0	
109	07/07/2010		MN/=	Mail Notice of Allowance		0	
108	07/04/2010		IREV	Issue Revision Completed		0	
107	07/04/2010		DVER	Document Verification		0	
106	07/04/2010		N/=	Notice of Allowance Data Verification Completed		0	
105	07/01/2010		PG-PB-DT	PG-Pub Notice of new or Revised projected publication date		0	
104	06/30/2010		L130	Receipt of all Acknowledgement Letters		0	
103	06/21/2010		CNTA	Notice of Allowability		0	
97	06/17/2010		FWDX	Date Forwarded to Examiner		0	
94	06/17/2010		ABN9	Disposal for a RCE / CPA / R129		0	
102	06/14/2010		IDSC	Information Disclosure Statement considered		0	
101	06/14/2010		IDSC	Information Disclosure Statement considered		0	
100	06/14/2010		M844	Information Disclosure Statement (IDS) Filed		0	
99	06/14/2010		RCAP	Reference capture on IDS		0	
98	06/14/2010		M844	Information Disclosure Statement (IDS) Filed		0	
96	06/14/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE		0	
95	06/14/2010		RCEX	Request for Continued Examination (RCE)		0	
93	06/14/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	
92	06/14/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	
91	06/14/2010		BRCE	Workflow - Request for RCE - Begin		0	
90	05/12/2010		MM327	Mail Miscellaneous Communication to Applicant		0	
89	05/12/2010		M327	Miscellaneous Communication to Applicant - No Action Count		0	
86	04/27/2010		MAPDA	Mail BPAI Decision on Appeal - Affirmed		0	
85	04/26/2010		APDA	BPAI Decision - Examiner Affirmed		0	
83	05/30/2009		AP_DK_M	Docketing Notice Mailed to Appellant		0	
82	05/30/2009		APAS	Assignment of Appeal Number		0	
81	05/19/2009		APWD	Appeal Awaiting BPAI Docketing		0	
80	05/15/2009		MRBNE	Mail Reply Brief Noted by Examiner		0	
79	05/14/2009		RBNE	Reply Brief Noted by Examiner		0	
78	04/10/2009		FWDX	Date Forwarded to Examiner		0	
77	03/30/2009		APRB	Reply Brief Filed		0	
76	03/17/2009		PACC	Exam. Ans. Review Complete		0	
75	02/23/2009	01/29/2009	MAPEA	Mail Examiner's Answer	25	67	
74	02/17/2009		APEA	Examiner's Answer to Appeal Brief		0	
73	12/04/2008		APBR	Appeal Brief Review Complete		0	
72	12/04/2008		FWDX	Date Forwarded to Examiner		0	
71	11/17/2008		AP.B	Appeal Brief Filed		0	
70	10/17/2008		APBD	Notice -- Defective Appeal Brief		0	
69	10/16/2008		APBR	Appeal Brief Review Complete		0	
68	10/16/2008		FWDX	Date Forwarded to Examiner		0	
67.1	09/29/2008		APBI	Defective / Incomplete Appeal Brief Filed		0	
67	09/29/2008		AP.B	Appeal Brief Filed		0	
66	08/21/2008	08/13/2008	N/AP	Notice of Appeal Filed	8	64	
65	08/21/2008		XT/G	Request for Extension of Time - Granted		0	
64	05/13/2008		MCTFR	Mail Final Rejection (PTOL - 326)		0	
63	05/12/2008		CTFR	Final Rejection		0	
58	03/06/2008		FWDX	Date Forwarded to Examiner		0	
62	02/27/2008		IDSC	Information Disclosure Statement considered		0	
60	02/27/2008	02/05/2008	M844	Information Disclosure Statement (IDS) Filed	22	57	
59	02/27/2008		RCAP	Reference capture on IDS		0	
55	02/27/2008		WIDS	Information Disclosure Statement (IDS) Filed		0	
61	02/05/2008		IDSC	Information Disclosure Statement considered		0	
57	02/05/2008		A...	Response after Non-Final Action		0	
56	02/05/2008		M844	Information Disclosure Statement (IDS) Filed		0	
54	02/05/2008		WIDS	Information Disclosure Statement (IDS) Filed		0	



53	11/08/2007	MCTNF	Mail Non-Final Rejection	0
52	10/24/2007	CTNF	Non-Final Rejection	0
51	10/17/2007	DOCK	Case Docketed to Examiner in GAU	0
50	09/26/2007	DOCK	Case Docketed to Examiner in GAU	0
49	09/26/2007	DOCK	Case Docketed to Examiner in GAU	0
48	09/25/2007	DOCK	Case Docketed to Examiner in GAU	0
47	08/22/2007	FWDX	Date Forwarded to Examiner	0
46	08/14/2007	A...	Response after Non-Final Action	0
45	05/14/2007	07/24/2005 MCTNF	Mail Non-Final Rejection	659 -1
44	05/11/2007	CTNF	Non-Final Rejection	0
43	04/26/2007	L197	Receipt of Acknowledgment Letter	0
42	04/20/2007	L197	Receipt of Acknowledgment Letter	0
41	03/15/2007	IDSC	Information Disclosure Statement considered	0
39	03/15/2007	RCAP	Reference capture on IDS	0
38.7	03/15/2007	10/15/2004 M844	Information Disclosure Statement (IDS) Filed	881 27
38	03/15/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
36	02/26/2007	DOCK	Case Docketed to Examiner in GAU	0
35	04/13/2006	C.ADB	Correspondence Address Change	0
34	03/28/2006	C.ADB	Correspondence Address Change	0
33	11/02/2005	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
32	11/02/2005	DOCK	Case Docketed to Examiner in GAU	0
40	11/30/2004	IDSC	Information Disclosure Statement considered	0
30.7	11/30/2004	M844	Information Disclosure Statement (IDS) Filed	0
30	11/30/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
27	10/15/2004	L175	Applicant response received	0
26	10/05/2004	ML196	Agency Referral Letter Mailed	0
25	10/05/2004	ML196	Agency Referral Letter Mailed	0
24	10/05/2004	ML196	Agency Referral Letter Mailed	0
23	10/05/2004	ML196	Agency Referral Letter Mailed	0
22	09/29/2004	L197	Receipt of Acknowledgment Letter	0
21	09/27/2004	WROIPE	Application Return from OIPE	0
20	09/27/2004	COMP	Application Is Now Complete	0
19	09/27/2004	ROIPE	Application Return TO OIPE	0
18	09/27/2004	WROIPE	Application Return from OIPE	0
17	09/27/2004	ROIPE	Application Return TO OIPE	0
16	09/24/2004	OIPE	Application Dispatched from OIPE	0
15	09/24/2004	COMP	Application Is Now Complete	0
12	09/02/2004	ML171	Request for Applicant Statement Regarding Potential DOE Interest (45-Day Letter) Mailed	0
11	09/01/2004	L197	Receipt of Acknowledgment Letter	0
37	08/20/2004	IDSC	Information Disclosure Statement considered	0
31	08/20/2004	A.PE	Preliminary Amendment	0
29	08/20/2004	RCAP	Reference capture on IDS	0
28.7	08/20/2004	M844	Information Disclosure Statement (IDS) Filed	0
28	08/20/2004	WIDS	Information Disclosure Statement (IDS) Filed	0
14	08/20/2004	FLFEE	Payment of additional filing fee/Preexam	0
13	08/20/2004	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
10	07/27/2004	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
9	07/12/2004	L171	Referred for DOE Property Rights review by L&R LARS	0
8	07/12/2004	L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated	0
7	07/12/2004	L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated	0
6	07/12/2004	L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated	0
5	07/12/2004	L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated	0
4	07/01/2004	L198	Referred to Level 2 (LARS) by OIPE CSR	0
3	07/01/2004	CLSS	CASE CLASSIFIED BY OIPE	0
2	06/17/2004	SCAN	IFW Scan & PACR Auto Security Review	0
1	05/24/2004	IEXX	Initial Exam Team nn	0

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**MAILED**

**DEC 20 2010**

**OFFICE OF PETITIONS**

In re Patent No. 7,842,232 : DECISION ON REQUEST FOR  
Bosch, et al. : RECONSIDERATION OF  
Issue Date: November 30, 2010 : PATENT TERM ADJUSTMENT AND  
Application No. 10/851,661 : NOTICE OF INTENT TO ISSUE  
Filed: May 24, 2004 : CERTIFICATE OF CORRECTION  
Attorney Docket No. **029318-1025** :

This is a decision on the petition filed on November 29, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred and fifty-six (1,156) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The term of the above-identified patent is extended or adjusted by **one thousand, one hundred and thirty-one (1,131) days**.

A review of the application file history reveals that the period of adjustment of 25 days entered for the mailing of an examiner's answer to an appeal brief on February 23, 2009, is unwarranted. The record reveals that the appeal brief filed September 29, 2008, was determined to be non-compliant with 37 CFR 41.37. The appeal could not have been said to have been "taken" with this non-compliant filing. An appeal brief was filed November 17, 2008, that was determined to be compliant with 37 CFR 41.37—the appeal was taken with this filing. The period of adjustment pursuant to 37 CFR 1.702(a)(2) and 37 CFR 1.703(a)(4), if any, is therefore properly calculated from the



day after the date the four months from the date the appeal brief in compliance with 37 CFR 41.37 was filed, March 18, 2009. The examiner's answer to the compliant appeal brief was mailed February 23, 2009. Accordingly, no period of adjustment is warranted under 37 CFR 1.703(a)(4) in this instance. The period of adjustment of 25 is being removed accordingly.

In view thereof, the revised patent term adjustment is 1,131 days (502 days of "B" delay + 659 days of "A" delay + 0 days of "C" delay - 0 days of overlap - 30 days of applicant delay.)

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Deposit account 19-0741 will be charged 200.00 fee set forth in 37 CFR 1.18(e). No additional fee is due.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred and thirty-one (1,131) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



**DRAFT COPY**

UNITED STATES PATENT AND TRADEMARK OFFICE

**CERTIFICATE OF CORRECTION**

PATENT : 7,842,232 B2

DATED : Nov. 30, 2010

INVENTOR(S) : Bosch et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[\*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (969) days

Delete the phrase "by 969 days" and insert – by 1131 days--